



# Minnesota Sports Facilities Authority

## Meeting Agenda

Tentative Agenda  
Friday, September 14, 2012  
9:00 a.m.

Hubert H. Humphrey Metrodome  
Halsey Hall Room  
900 South Fifth Street, Minneapolis, MN 55415

1. CALL TO ORDER
2. ROLL CALL
3. ADOPTION OF AGENDA
4. APPROVAL OF AUTHORITY MEETING MINUTES: Regular Meeting, August 24, 2012
5. CHAIR'S REPORT
6. BUSINESS
  - a. Action Items – New Stadium
    - i. Authorize Chair & Staff to Negotiate & Award Contract – Legal Services
  - b. Report Items
    - i. Affirmative Action Plan 2012 – 2014
    - ii. Project Labor Agreement Update
7. OTHER
8. PUBLIC COMMENTS
9. DISCUSSION
10. ANNOUNCE FUTURE MEETINGS
  - Friday, September 14, 2012 at 10:30a.m. – Tour Xcel Center
  - Friday, October 5, 2012 at 9:00 a.m. – Board Meeting
11. ADJOURNMENT

# MINNESOTA SPORTS FACILITIES AUTHORITY

Regular Meeting  
Friday, August 24, 2012  
9:00 a.m.

Hubert H. Humphrey Metrodome  
Halsey Hall Room  
900 South 5<sup>th</sup> Street  
Minneapolis, MN 55415

## 1. CALL TO ORDER

Chair Michele Kelm-Helgen called the meeting of the Minnesota Sports Facilities Authority to order at 9:02 a.m.

## 2. ROLL CALL

Commissioners Present: Barbara Butts Williams, Duane Benson, Bill McCarthy, Michele Kelm-Helgen

Commissioners Absent: John Griffith

## 3. ADOPTION OF AGENDA

Chair Kelm-Helgen presented the agenda. *A motion was made by Commissioner McCarthy and seconded by Commissioner Butts Williams to adopt the agenda. Motion carried.*

## 4. APPROVAL OF AUTHORITY MEETING MINUTES

Approval of Authority Minutes for Regular Meeting of July 13, 2012. *A motion made by Commissioner Benson and seconded by Commissioner Butts Williams to approve the minutes. Motion carried.*

Commissioner Griffith joined the meeting at 9:09 a.m.

## 5. CHAIRS REPORT

Chair Kelm-Helgen had nothing to report.

## 6. BUSINESS

### a Staff Reports

#### i. Building Systems and Operations Review

Steve Maki and Bobbi Ellenberg overviewed building systems and operations through a powerpoint presentation. The presentation is available on MSFA website by same name.

#### ii. Financial Report – 6/30/2012

Mary Fox-Stroman presented the monthly financial report ending June 30, 2012. The reports discussed included the Budgetary Comparison Statements – January 1, 2012 through June 30, 2012 and the Accounts Receivable Summary as of June 30, 2012. Copies of reports are on file in the Authority office.

**7. PUBLIC COMMENT**

R.A. Edwards addressed the Authority on the topic of Facilities

**8. DISCUSSION**

a Project Labor Agreement Plans

The Board was in agreement to have the MSFA staff to draft a plan. *A motion was made by Commissioner McCarthy and seconded by Commissioner Griffith. Motion carried.*

**9. ANNOUNCE FUTURE MEETINGS**

- a. Friday, August 24, 2012 at 10:30 a.m. – Tour of Target Field
- b. Friday, August 24, 2012 at 11:45 a.m. – Tour of Target Center
- c. Friday, August 24, 2012 at 2:00 p.m. – Tour of TCF Stadium
- d. Thursday, September 6, 2012 at 5:00 p.m. – Architect Presentation
- e. Friday, September 14, 2012 at 9:00am – Regular Board Meeting

**10. ADJOURNMENT**

There being no further business to come before the Authority, a motion was made by Commissioner Griffith to adjourn and seconded by Commissioner Butts Williams. Chair Kelm-Helgen adjourned the meeting at 9:45 a.m.

ADOPTED this 14 day of September, 2012 by the Minnesota Sports Facilities Authority

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
CEO / Executive Director



**MINNESOTA SPORTS FACILITIES AUTHORITY**  
**900 South 5th Street**  
**Minneapolis, Minnesota 55415**

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September 14, 2012

**MEMORANDUM**

**TO:** MSFA Board Members

**FROM:** Ted Mondale / Steve Maki

**SUBJECT:** Authorize Chair & Staff to Negotiate & Award Contract – New Stadium Legal Services

On August 16, 2012 sixteen proposals were received for MSFA Legal Services. The proposals were reviewed by a committee composed of Commissioners Griffith and McCarthy, CEO/Executive Director Ted Mondale, staff member Steve Maki, Scott Stenman from Hammes Company, and Mike Green from Michael Best Law Firm, Madison, WI. Five firms were selected to be interviewed: Dorsey & Whitney; Fabyanske, Westra, Hart & Thomson; Gray Plant Mooty; Leonard, Street & Deinard; and McGrann Shea. Interviews were conducted on August 30, 2012.

The interview committee looked at five key criteria to select the new legal council: expertise and experience; key staff proposed to be assigned to perform work for the Authority; past performance; interview; and hourly billable rate (cost). Based upon the materials submitted by the interviewees and the interviews of the five firms, the committee unanimously recommends that the contract pairing for the above work be awarded to Dorsey & Whitney and Fabyanske, Westra, Hart & Thomas. Dorsey & Whitney has extensive experience in complex development issues and helped build Minnesota's infrastructure, including Metropolitan stadium (circa 1965), Target Field, TCF Stadium, Target Center and the Metrodome. Fabyanske's major areas of practice are real estate and construction.

***Recommendation:*** *The Authority accepts the proposals for Legal Services from Dorsey & Whitney and Fabyanske, Westra, Hart & Thomson, subject to final negotiation by the Chair and CEO/Executive Director. Furthermore, the Authority authorizes the Chair and CEO/Executive Director to enter into a contract for those services upon completion of contract negotiations.*



**MINNESOTA SPORTS FACILITIES AUTHORITY**  
**900 South 5th Street**  
**Minneapolis, Minnesota 55415**

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September 14, 2012

**MEMORANDUM**

TO: MSFA Commissioners

FROM: Ted Mondale/Mary Fox-Stroman

SUBJECT: Affirmative Action Plan 2012 - 2014

It is the policy of the Minnesota Sports Facilities Authority to provide equal opportunity in all areas of employment and to take affirmative action to prevent employment discrimination. MN Statute 473.143 requires the Authority to develop and submit an affirmative action plan to Minnesota Management & Budget (MMB). The plan must include goal-oriented management policies and procedures to eliminate barriers to employment opportunities for minorities, women and qualified disabled persons that are not based on specific job requirements. Since the Authority has a temporary personnel policy and has not yet implemented a permanent policy, MMB recommended that the Authority adopt a temporary "Affirmative Action Plan" and then when the personnel policy is finalized adopt a more comprehensive plan.

The attached Affirmative Action Plan is based on MMB's template and includes a statement of commitment, harassment/discrimination policy, internal harassment/discrimination complaint procedure, reasonable accommodation policy, and two attachments: Complaint of harassment/discrimination form and Employee request for reasonable accommodation form.

The Authority plans to demonstrate good faith effort to comply with the state's affirmative action requirements and to provide an employment setting that is equally accessible and supportive to all employees. Its employment practices will reflect value and respect for diversity among its employees.

A separate employment plan will be developed to recruit, hire, and retain minorities during the design, development, and construction management of the new stadium facility.

**RECOMMENDATION:** *The Authority approves the attached "temporary" Affirmative Action Plan 2012 – 2014.*

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State of Minnesota

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# **Minnesota Sports Facilities Authority**

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## **Affirmative Action Plan**

**2012 – 2014**

900 South Fifth Street  
Minneapolis, MN 55415

This document can be made available upon request in alternative formats  
by contacting the MSFA at #612.332.0386

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**Minnesota Sports Facilities Authority**  
**2012 – 2014 Affirmative Action Plan**

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## I. STATEMENT OF COMMITMENT

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The **Minnesota Sports Facilities Authority** (“MSFA”) is committed to Minnesota’s statewide affirmative action efforts and equal employment opportunity policies. We affirm our support of these policies which provide that:

- Discrimination against applicants or employees on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age will not be tolerated.
- This agency is committed to the implementation of the affirmative action policies, programs, and procedures included in this plan;
- This agency will continue to actively promote a program of affirmative action, wherever minorities, women, and persons with disabilities are underrepresented in the workforce;
- This agency is committed to the retention all qualified, talented employees, including protected group employees.

Mary Fox-Stroman will act as the MSFA’s Affirmative Action Officer designee and ADA Coordinator designee. (He/She) is responsible for monitoring the day-to-day activities of the program.

Anyone interested in reviewing the our agency’s affirmative action plan or who has concerns about affirmative action or equal opportunity issues, may request a copy of the plan from Mary Fox-Stroman.

It is the agency’s policy to provide an employment environment free of any form of discriminatory harassment as prohibited by federal, state, and local human rights laws. I strongly encourage suggestions as to how we may improve. We strive to provide equal employment opportunities and the best possible service to the citizens of Minnesota.

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Commissioner

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date



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## II. HARASSMENT/DISCRIMINATION POLICY

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### Statement of Policy

It is the policy of the **MSFA** to prohibit harassment of its employees based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights, disability, sexual orientation, or age. This prohibition with respect to harassment includes both overt acts of harassment and those acts that create a negative work environment. Any employee subjected to such harassment should file a complaint internally with the agency's Affirmative Action Officer designee. If the employee chooses, s/he may file a complaint externally with the Minnesota Department of Human Rights, the Equal Employment Opportunity Commission, or through other legal channels. These agencies have time limits for filing complaints, so individuals should contact the agencies for more information. In extenuating circumstances, the employee should contact the State Affirmative Action Program Coordinator at Minnesota Management & Budget for information regarding the filing of a complaint. Any unintentional or deliberate violation of this policy by an employee will be cause for appropriate disciplinary action.

Each employee is responsible for the application of this policy. This includes initiating and supporting programs and practices designed to develop understanding, acceptance, commitment, and compliance within the framework of this policy. All employees must be informed that harassment is unacceptable behavior. The Affirmative Action Officer designee will be expected to keep the **MSFA** and its employees apprised of any changes in the law or its interpretation regarding this form of discrimination. The Affirmative Action Officer designee is also responsible for:

1. Notifying all employees, and orienting each new employee who is hired, of this policy; and employees and applicants
2. Informing all employees of the complaint procedure and ensuring that all complaints will be investigated promptly and carefully.

### Definitions

Discriminatory harassment is any behavior based on protected class status which is not welcome, which is personally offensive, which, therefore, may effect morale and interfere with the employee's ability to perform. For example, harassment based on national origin has been defined by the U.S. Equal Employment Opportunity Commission as "Ethnic slurs and other verbal or physical conduct relating to an individual's national origin."

Sexual harassment has also been specifically defined by the Minnesota Human Rights Act, which states in regard to employment, that:

“Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when: (1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment; (2) submission to or rejection of that conduct or communication by an individual is used as a factor in decision affecting that individual's employment; or (3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

It is possible for discriminatory harassment to occur: 1) among peers or coworkers, 2) between managers and subordinates, or 3) between employees and members of the public. Employees who experience discriminatory harassment should bring the matter to the attention of the MSFA's Affirmative Action Officer designee. In fulfilling our obligation to maintain a positive and productive work environment, the Affirmative Action Officer designee and all employees are expected to address or report any suspected harassment or retaliation.

Varying degrees of discriminatory harassment violations can occur and require varying levels of progressive discipline. Individuals who instigate harassment are subject to serious disciplinary actions up to and including suspension, demotion, transfer, or termination. Additionally, inappropriate behaviors that do not rise to the level of discriminatory harassment, but are none the less disruptive, should be corrected early and firmly in the interests of maintaining a barrier-free work place. Individuals who participate in inappropriate behaviors at work are also subject to disciplinary actions.

## **Procedure**

Any employee or applicant who believes that she/he has experienced discrimination or harassment based on his/her race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint of discrimination.

Complaints of discrimination or harassment can be filed using the internal discrimination complaint procedure included in this affirmative action plan.

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### **III. INTERNAL HARASSMENT/DISCRIMINATION COMPLAINT PROCEDURE**

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The **MSFA** has established the following discrimination complaint procedure to be used by all employees and applicants. Coercion, reprisal, or intimidation against anyone filing a complaint or serving as a witness under this procedure is prohibited.

#### **Responsibility of Employees**

All employees shall respond promptly to any and all requests by the Affirmative Action Officer designee for information and for access to data and records for the purpose of enabling the Affirmative Action Officer designee to carry out responsibilities under this complaint procedure.

#### **Who May File**

Any employees or applicants who believes that s/he has been discriminated against by reason of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age may file a complaint. Employees who are terminated are encouraged to file their internal complaint prior to their actual separation; however, complaints will be taken for a reasonable period of time subsequent to the actual separation date.

#### **The Complaint Procedure**

The internal complaint procedure provides a method for resolving complaints involving violations of this agency's nondiscrimination policy within the agency. Employees and applicants are encouraged to use this internal complaint process. Retaliation against a person who has filed a complaint either internally or through an outside enforcement agency or other legal channels is prohibited. The Affirmative Action Officer designee may contact the Office of Diversity and Equal Opportunity if s/he wants information about filing a complaint.

#### **Filing Procedures**

1. The employee or applicant completes the "Complaint of Discrimination Form" provided by the Affirmative Action Officer designee. Employees are encouraged to file a complaint within a reasonable period of time after the individual becomes aware that a situation(s) may involve discriminatory harassment. The Affirmative Action Officer designee will, if requested, provide assistance in filling out the form.

2. The Affirmative Action Officer designee determines if the complaint falls under the purview of Equal Employment Opportunity law, i.e., the complainant is alleging discrimination or harassment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local human rights commission, disability, sexual orientation, or age; or if the complaint is of a general personnel concern. The Affirmative Action Officer designee shall also discuss other options for resolution, such as the workplace mediation.
  - A. If it is determined that the complaint is not related to discrimination but rather to general personnel concerns, the Affirmative Action Officer designee will inform the complainant, in writing, within ten (10) working days.
  - B. If the complaint is related to discrimination, the Affirmative Action Officer designee will, within ten (10) working days, contact all parties named as respondents and outline the basic facts of the complaint. The respondents will be asked to provide a response to the allegations within a specific period of time.
3. The Affirmative Action Officer designee shall then investigate the complaint. At the conclusion of the investigation, the Affirmative Action Officer designee shall notify the complainants and respondents that s/he has completed the investigation. The Affirmative Action Officer designee shall then review the findings of the investigation.
  - A. If there is sufficient evidence to substantiate the complaint, appropriate action will be taken.
  - B. If insufficient evidence exists to support the complaint, a letter will be sent to the complainants and the respondents dismissing the complaint.
4. A written answer will be provided to the parties within sixty (60) days after the complaints are filed. The complainants will be notified should extenuating circumstances prevent completion of the investigation within sixty (60) days.
5. Dispensation of the complaint will be filed with the Commissioner of the Minnesota Management & Budget after the final determination.
6. All documentation associated with a complaint shall be considered investigative data under the Minnesota Government Data Practices Act. The status of the complaint will be shared with the complainants and respondents. After an investigation is completed and all appeals are exhausted, all documentation is subject to the provisions of the Minnesota Government Data Practices Act.
7. All data collected may at some point become evidence in civil or criminal legal proceedings pursuant to state or federal statutes. An investigation may include, but is not limited to, the following types of data:

- A. Interviews or written interrogatories with all parties involved in the complaint, e.g., complainants, respondents, and their respective witnesses; officials having pertinent records or files, etc.
  - B. All records pertaining to the case i.e., written, recorded, filmed, or in any other form.
8. The Affirmative Action Officer designee shall maintain records of all complaints and any pertinent information or data for three (3) years after the case is closed.

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## **IV. REASONABLE ACCOMMODATION POLICY**

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### **Policy**

The **MSFA** is committed to the fair and equal employment of people with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without accommodation, other qualified employees and applicants face barriers to employment without the accommodation process. It is the policy of this agency to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. In accordance with the Minnesota Human Rights Act and the Americans with Disabilities Act, accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees, and employees seeking promotional opportunities.

### **Definitions**

#### **Disability:**

For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities; or a record of such an impairment; or being regarded as having such an impairment.

#### **Reasonable Accommodation:**

A reasonable accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity.

Examples of accommodations may include acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and reassignment to a vacant position.

Reasonable accommodation applies to three aspects of employment:

- a. To assure equal opportunity in the employment process;
- b. To enable a qualified individual with a disability to perform the essential functions of a job; and
- c. To enable an employee with a disability to enjoy equal benefits and privileges of employment.

### **Procedure - Current Employees and Employees Seeking Accommodation**

1. This agency will inform all employees that this accommodation policy can be made available in accessible formats.
2. The employee shall inform their supervisor or the ADA Coordinator designee of the need for an accommodation.
3. The ADA Coordinator designee may request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained on separate forms and in separate, locked files. No one will be told or have access to medical information unless the disability might require emergency treatment.
4. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:
  - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary.
  - b. Determine the precise job-related limitation.
  - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
  - d. Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the **MSFA** is free to choose among equally effective accommodations and may choose the one that is less expensive or easier to provide.
5. The ADA Coordinator designee will work with the employee to obtain technical assistance, as needed.
6. The ADA Coordinator will provide a decision to the employee within a reasonable amount of time.
7. If an accommodation cannot overcome the existing barriers or if the accommodation would cause an undue hardship on the operation of the business, the employee and the ADA

Coordinator designee shall work together to determine whether reassignment may be an appropriate accommodation.

### **Procedure-Job Applicants**

1. The job applicant shall inform the ADA Coordinator designee of the need for an accommodation. The ADA Coordinator designee will discuss the needed accommodation and possible alternatives with the applicant.
2. The ADA Coordinator designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

### **Policy for Funding Accommodations**

Funding must be approved by the MSFA for accommodations that do not cause an undue hardship.

### **Definition of Undue Hardship**

An undue hardship is an action that is unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of this agency.

### **Procedure for Determining Undue Hardship**

In determining whether or not providing a reasonable accommodation would impose an "undue hardship," the MSFA will consider at least the following factors:

1. overall size of the program (i.e., number and type of facilities, size of budget);
2. type of the operation including the composition and structure of the work force;
3. nature and cost of the accommodation needed;
4. reasonable ability to finance the accommodation; and
5. documented good-faith efforts to explore less restrictive or less expensive alternatives including consultation with the disabled person or with knowledgeable disabled persons or organizations.

The ADA Coordinator designee will provide a decision to the employee.

### **Appeals**

Employees or applicants who are dissatisfied with the decisions pertaining to his/her accommodation request may file an appeal with the MSFA CEO/Executive Director, within a reasonable period of time, for a final decision.

If the individual believes the decision is based on discriminatory reasons, then they may file a complaint internally through the MSFA's complaint procedure as outlined in this plan.

### **Supported Work**

The MSFA will review vacant positions and assess the current workload and needs of the office, to determine if job tasks might be performed by a supported employment worker(s). If appropriate, the MSFA will work with the agency ADA Coordinator and organizations that provide employment services to persons with disabilities to recruit and hire individuals for supported employment if such a position is created.



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**ATTACHMENT**

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**MINNESOTA SPORTS FACILITIES AUTHORITY**

900 South Fifth Street  
Minneapolis, MN 55415  
651-335-3311

**A. Complaint Of Harassment/Discrimination****Please Read Before Completion of Form**

Any complaint of harassment/discrimination is considered confidential data under Minnesota Statute 13.39, Subd. 1 and 2. This information is being collected for the purpose of determining whether harassment/discrimination has occurred. You are not legally required to provide this information, but without it, an investigation cannot be conducted. This information may only be released to the Affirmative Action Officer designee, the complainant, the respondent, and appropriate personnel.

**Complainant (You)**

<b>Complainant (You)</b>		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ( )
Agency	Division	Manager
<b>Respondent (Person Who Harassed/Discriminated Against You)</b>		
Name	Job Title	
Work Address	City, State, Zip Code	Telephone ( )
Agency	Division	Manager

**The Complaint**

<b>The Complaint</b>	
Basis of Complaint ("X" all that apply):	
<input type="checkbox"/> Race	<input type="checkbox"/> Color
<input type="checkbox"/> Disability	<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sex	<input type="checkbox"/> Creed
<input type="checkbox"/> Marital Status	<input type="checkbox"/> Status with Regard to Public Assistance
<input type="checkbox"/> Age	<input type="checkbox"/> Religion
<input type="checkbox"/> National Origin	<input type="checkbox"/> Membership or Activity in a Local Human Rights Commission
Date most recent act of harassment/discrimination	If you filed this complaint with another

took place:	agency, give the name of that agency:
Describe how you believe that you have been harassed/discriminated against (names, dates, places, etc.). Use a separate sheet of paper if needed and attach to this form.	

<b>Information on Witnesses Who Can Support Your Case</b>		
Name	Work Address	Work Telephone
1.		( )
2.		( )
3.		( )

Additional witnesses may be listed in “Additional Information” or on a separate sheet attached to this form.

This complaint is being filed on my honest belief that the MSFA has harassed/ discriminated against me. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.	
Complainant Signature	Date

Affirmative Action Officer Signature	Date
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# ATTACHMENT

## B. Employee Request for Reasonable Accommodation Form

*Please Print or Type*

Employee Name:	Classification/Division	Date of Request:								
<p><i>Attach additional sheets for questions below if necessary.</i></p>										
<p><b>1. Please describe the nature of your medical condition for which you are requesting an accommodation. Describe how it limits any major life activities.</b></p>										
<p><b>2. How does it affect your ability to perform your job?</b></p>										
<p><b>3. Type of accommodation requested:</b></p> <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> Making facilities readily accessible</td> <td><input type="checkbox"/> Modification of equipment or devices</td> </tr> <tr> <td><input type="checkbox"/> Job restructuring</td> <td><input type="checkbox"/> Qualified reader or interpreter</td> </tr> <tr> <td><input type="checkbox"/> Part-time or modified work schedule</td> <td><input type="checkbox"/> Acquisition of equipment or devices</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Other (specify): _____</td> </tr> </table> <p><b>4. Describe in detail the accommodation you are requesting:</b></p>			<input type="checkbox"/> Making facilities readily accessible	<input type="checkbox"/> Modification of equipment or devices	<input type="checkbox"/> Job restructuring	<input type="checkbox"/> Qualified reader or interpreter	<input type="checkbox"/> Part-time or modified work schedule	<input type="checkbox"/> Acquisition of equipment or devices	<input type="checkbox"/> Other (specify): _____	
<input type="checkbox"/> Making facilities readily accessible	<input type="checkbox"/> Modification of equipment or devices									
<input type="checkbox"/> Job restructuring	<input type="checkbox"/> Qualified reader or interpreter									
<input type="checkbox"/> Part-time or modified work schedule	<input type="checkbox"/> Acquisition of equipment or devices									
<input type="checkbox"/> Other (specify): _____										
<p><b>5. Has your medical provider recommended the accommodation?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</b></p>										
<p><b>6. How will the requested accommodation be effective in allowing performance of the essential job function(s)?</b></p>										
<p><b>Signature of Employee:</b></p>	<p><b>Date:</b></p>									
<p>This information will be used by human resources or any other person, including the MSFA's legal counsel, who is authorized by my employer to handle medical information for ADA/MHRA purposes and, any information concerning my physical or mental condition, that are necessary to determine whether I have a disability as defined by the Americans with Disabilities Act and/or the Minnesota Human Rights Act, and to determine whether any reasonable accommodations can be made. The provision of this information is voluntary, however if you refuse to provide it, your employer may refuse to provide reasonable accommodation.</p>										



**MINNESOTA SPORTS FACILITIES AUTHORITY**  
**900 South 5th Street**  
**Minneapolis, Minnesota 55415**

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September 14, 2012

**MEMORANDUM**

TO: MSFA Commissioners

FROM: Ted Mondale

SUBJECT: Project Labor Agreement

Attached is a memorandum from Dorsey & Whitney advising that a Project Labor Agreement is authorized and recommended for the stadium project.

If you concur with this recommendation, staff and legal counsel will prepare a draft resolution with proposed findings for your consideration at a subsequent meeting.

**RECOMMENDATION:** *Direct the CEO/Executive Director and staff to prepare a resolution with proposed findings.*

## MEMORANDUM

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TO: Minnesota Sports Facilities Authority

FROM: Jocelyn Knoll and Chris Ryan

CC: Jay Lindgren

DATE: September 13, 2012

RE: Recommendation to Execute a Project Labor Agreement

The Minnesota Sports Facilities Authority (the “Authority”) is authorized to enter into a Project Labor Agreement (“PLA”) related to construction of the new stadium. PLAs are specifically authorized under the National Labor Relations Act (“NLRA” or “Act”), 29 U.S.C. §§ 151-169. The NLRA provides specific exceptions from other requirements of the Act in order to permit employers and unions in the construction industry to enter into PLAs. See 29 U.S.C. §§ 158(e) and (f). In its landmark 1993 *Boston Harbor* decision, the United States Supreme Court recognized the value of PLAs in serving the public interest. Accordingly, as a matter of law and public policy PLAs are an appropriate construction management tool in the public and private sectors.

The Authority is authorized to set prevailing wage rates for this project; these labor rates must be agreed to by a contractor before the Authority and the contractor execute a contract. Specifically, the authorizing legislation for construction of the stadium (2012 Laws, Ch. 299) (the “Stadium Act”), Section 15 [473J.11], Subd. 1(c), provides that the Authority may contract for materials, supplies, and equipment in accordance with Minnesota Statute 471.345, the Uniform Municipal Contracting Law (“UMCL”). Subdivision 7 of the UMCL, Minimum labor standards, provides:

**Minimum labor standards.** Nothing in this section shall be construed to prohibit any municipality from adopting rules, regulations, or ordinances which establish the prevailing wage rate as defined in section 177.42, as a minimum standard for wages and which establish the hours and working conditions prevailing for the largest number of workers engaged in the same class of labor within the area as a minimum standard for a contractor’s employees which must be agreed to by any contractor before the contractor may be awarded any contract for the furnishing of any labor, material, supplies, or service.

By its terms, Minn. Stat. § 471.345 authorizes the Authority to adopt rules establishing prevailing wage rates. This authority includes the power to enter into a PLA, which would set prevailing wage rates for the duration of the stadium project.

In exercising the powers granted to it by the Minnesota Legislature, the Authority should consider that the stadium project is one of the largest public works projects ever authorized in this State and is currently one of the largest construction projects authorized to be built in this

Country. The Federal Government, the largest purchaser of construction services in the world, is subject to a February 2009 Executive Order that specifically allows Federal Agencies to require project labor agreements on large-scale Federal construction projects. The reason this authority exists—and is encouraged to be exercised on large construction projects—is that PLAs give project owners, building contractors and labor forces a unique opportunity to anticipate and avoid potential labor problems that might otherwise arise and interrupt or delay project progress.

PLAs maximize job stability, efficiency and productivity, and, most importantly, minimize the risks and inconveniences to the public that often accompany large, expensive public works projects. Specifically, a project-specific PLA is designed to provide a steady supply of skilled labor on complex projects, coordinate the work of multiple crafts, establish a peaceful means of dispute resolution without strikes or lockouts, and help to ensure that the project is completed on time and without costly labor overruns. These are the primary reasons why PLAs are commonly used on large, complex stadium projects, including stadium projects built in Minnesota. The Metrodome, Target Field and TCF Bank Stadium were all built under PLAs. Outside of Minnesota, the following stadiums were built using PLAs: Miller Park, Milwaukee, Wisconsin; Gund Arena, Cleveland, Ohio; Cleveland Browns Stadium, Cleveland, Ohio; Comerica Park, Detroit, Michigan; Nationals Park, Washington, D.C.; Lucas Oil Stadium, Indianapolis, Indiana; Citi Field, New York, New York; and Safeco Field in Seattle, Washington.

Although the use of PLAs is increasingly common on large publicly financed construction projects, PLAs are not without controversy. Opponents charge that by using PLAs and their requirements, PLAs actually raise project costs because open-shop (non-union) contractors are discouraged from bidding on projects that have PLAs. As a result, open-shop contractors contend that there is frequently an absence of open-shop bidders on PLA projects, which, in turn, results in fewer bidders for the project. Therefore, open-shop contractors argue the overall cost of the project with a PLA will be higher.

Recognizing there are many reasons why contractors—union and non-union—may choose not to bid on certain projects, we were unable to find any published study that empirically demonstrates that a PLA requirement was itself the cause of a decrease in the number of bidders on a large construction project. Further, we are unaware of any credible analysis showing that fewer bidders translate into higher actual project costs. This is not surprising given the current depressed construction market in this State. Competition among union and open-shop contractors for publicly bid projects at the local, State and Federal levels remains at a high level.

In conclusion, weighing the arguments for and against PLAs, a PLA requirement makes sense for a large publicly funded stadium project because a PLA promotes a planned approach to labor relations, allows contractors to more accurately estimate labor costs and schedules, and reduces the risks of costly disruptions. Specifically PLAs offer protection against potential labor strikes, lockouts, or other work stoppages for the duration of the project. History tells us that work stoppages on large public projects can increase project costs by millions of dollars due to extra costs caused by construction delays or disruptions. Notably, during the projected construction period of the new stadium numerous collective bargaining agreements of local construction craft unions are scheduled to expire. The only way the Authority can protect itself and the taxpayers against work stoppages during this period and for the term of the project is to enter into a PLA, a comprehensive labor relations agreement that supersedes all craft agreements, setting uniform terms and conditions, for this project.



September 11, 2012

Michele Kelm-Helgen, Chair  
Minnesota Sports Facilities Authority  
Hubert H. Humphrey Metrodome  
900 South 5<sup>th</sup> Street  
Minneapolis, MN 55415

**Re: Minnesota Vikings Support for a Project Labor Agreement**

Dear Chair Kelm-Helgen:

On behalf of the Minnesota Vikings I'm writing to state the team's preference that the Minnesota Sports Facilities Authority utilize a project labor agreement with respect to the construction of a new multi-purpose football stadium. We believe such an agreement is a proven tool to avoid costly construction delays, ensure an adequate and diverse workforce, and maximize project stability, efficiency and productivity.

Legislation enabling the new stadium contemplates a 2016 opening date. Opening by this date is also a key, shared goal of the Authority and team. By guaranteeing there are no lock outs or strikes during stadium construction and providing a uniform, project specific, contract expiration date, a project labor agreement provides stability and helps avoid costly delays that could jeopardize our shared goal. Because the PLA will be finalized before the start of construction and tailored to this particular project, a project labor agreement will also provide the Authority and the team an opportunity to anticipate and avoid potential problems that might otherwise arise during construction and delay the stadium's completion.

A project labor agreement also provides a number of additional benefits. It will ensure an adequate supply of highly trained, skilled labor. It will assist in ensuring diversity in the work force and meeting the goals contemplated in the stadium's enabling legislation. Finally, it provides certainty to project labor costs and maximizes project efficiency and productivity.

Project labor agreements have been utilized on other recently constructed public facilities, such as Target Field and TCF Bank. They have proven to be a useful construction management tool for cost savings as well as on-time, on budget, and quality construction. For these reasons the

Michelle Kelm-Helgen  
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Minnesota Vikings support a project labor agreement for the stadium project and look forward to working with the Authority on the terms of such an agreement.

Yours truly,



Lester Bagley  
Vice President of Public Affairs & Stadium Development

cc. Duane Benson  
Barbara Butts Williams  
John Griffith  
Bill McCarthy  
Ted Mondale  
Mark Wilf  
Kevin Warren