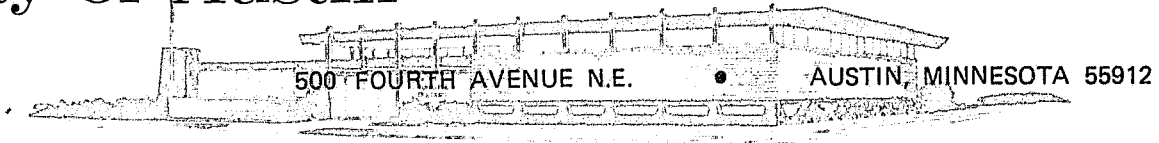


Austin

City of Austin



February 3, 1983

Joan Anderson Growe
Secretary of State
State of Minnesota
Room 180, State Office Building
St. Paul, Minnesota 55155

Dear Mrs. Growe:

Enclosed is a Certificate of Amendment to the Charter of the City of Austin, Mower County, Minnesota.

This is being filed with your office pursuant to M.S.A. 410.12.

Sincerely,

Lucy Johnson

Lucy Johnson
City Recorder's Office

LJ/db
encl.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 23 1989

Joan Anderson Growe
Secretary of State

139120

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CERTIFICATE

Richard Benzkofer, City Recorder of the City of Austin, does hereby certify and state:

1. That he is the duly appointed, qualified, and acting Recorder of the City of Austin
2. That as such City Recorder he has charge of all minute, resolution and ordinance books of the City of Austin, and all official records of the City of Austin. That as such City Recorder he also has charge of the corporate seal of the City of Austin, which seal is affixed to this Certificate.
3. That he has compared the document attached to this Certificate with the original document on file in his office and that the attached copy is a full, true, and correct copy of the original Certificate of Amendment to Charter of City of ^{Austin} in all respects.
4. That said ..Certificate of Amendment to Charter of City of Austin.... was duly passed and approved upon the date shown upon the said document and was duly published in the official newspaper of the City of Austin.
5. That all formalities required by the Charter of the City of Austin, or the laws of the State of Minnesota have been complied with in the passage of this (motion) (resolution) (ordinance) and it is now in full force and effect.

Subscribed and sworn to before me this

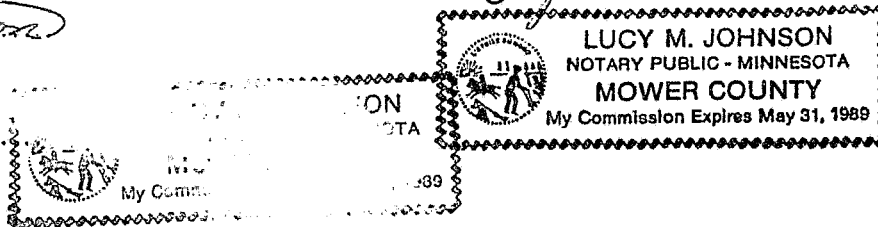
.... 3rd... day of ... February..... 19.. 83

..... *Lucy M. Johnson*

Notary Public, Mower County, Minn.

My Commission Expires

Richard Benzkofer



CERTIFICATE OF AMENDMENTS TO CHARTER OF

City of Austin,
Mower County, Minnesota

This is to certify that I, Richard Benzkofer, the undersigned, am the City Recorder of the City of Austin, Mower County, Minnesota. That the seal attached hereto is the corporate seal of said City. That pursuant to resolution of the Common Council, a special Charter Amendment election was duly held by the electors of the City of Austin on July 7, 1982, at which time the following amendments were submitted by petition papers to the Charter Commission of said City and then were submitted to the electorate of said City. That the Judges of election have duly made a return of the results of said election including the number of votes cast, the number of votes for and against said amendments. That such results have been duly examined and canvassed by the Common Council sitting as a Canvass Board.

That the Proposition known as Proposition No. 1 that was voted upon by the voters of the City of Austin was as follows:

INITIATIVE, REFERENDUM AND RECALL: ESTABLISHMENT

That Chapter II of the City Charter of the City of Austin, Minnesota, be amended by adding thereto a new Section 13 to read as follows:

"INITIATIVE, REFERENDUM AND RECALL"

Subdivision A POWERS RESERVED BY THE PEOPLE

The people of Austin reserve to themselves the powers, in accordance with the provisions of this charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, to require any ordinance when passed by the Council to be referred to the electorate for approval or disapproval, and to recall elected municipal officers. These powers shall be called the initiative, the referendum, and the recall, respectively.

Subdivision B EXPENDITURES BY PETITIONERS

No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent any such committee from incurring an expense for legal advice, stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section shall constitute a misdemeanor.

INITIATIVE

Subdivision C INITIATION OF MEASURES

Any five electors may form themselves into a committee for the initiation of any ordinance except an ordinance appropriating money or authorizing the levy of taxes. Before circulating the petition referred to in Subdivision D, such electors shall file a copy of the proposed ordinance with the city clerk together with their names and addresses as members of such committee. Such electors shall also attach a copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors thereof.

Subdivision D FORM OF PETITION AND OF SIGNATURE PAPERS

The petition for the adoption of any ordinance shall consist of the ordinance, together with all signature papers and affidavits thereto attached. Such petition shall not be complete unless the signature papers have been signed by a number of voters equal to at least 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election. The signatures need not be on one signature paper, but the circulator of every signature paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

proposing an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. This ordinance is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned electors, understanding the terms and the nature of the ordinance hereto attached, petition the common council for its adoption, or in lieu thereof, for its submission to the electors for their approval.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator that each signature appended to the petition is the genuine signature of the person whose name it purports to be.

Subdivision E FILING OF PETITIONS AND ACTION THEREON

The petition shall be filed in the office of the city clerk as one instrument. Within five days after the filing of the petition, the city clerk shall ascertain by examination of the number of electors whose signatures are appended thereto and whether this number is at least 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election. If he finds the number of such signatures is less than 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election, he shall at once notify one or more of the committee of electors of that fact, certifying the reasons for his finding. The committee shall then be given 30 days in which to file additional signature papers. If at the end of that period the petition is found to still lack the required signatures, the clerk shall file it in his office and shall notify each member of the committee of electors of that fact. The final finding by the clerk of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination, shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council from referring the ordinance to the electors at the next regular or any special election at its option.

Subdivision F ACTION OF COUNCIL ON PETITION

When the petition is found to be sufficient, the city clerk shall submit it to the council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the ordinance after the holding of which the ordinance shall be finally acted upon by the council not later than 65 days after the date upon which it was first submitted to the council by the city clerk. If the Council fails to pass the proposed ordinance or passes it in a form different from that set forth in the petition and unsatisfactory to the committee of electors, the proposed ordinance shall be submitted by the council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is equal to at least 25 percent of the total number of voters voting at the last preceding regular municipal election, the council shall call a special election upon the measure. Such special election shall be held not less than 30 nor more than 120 days from the date of final action on the ordinance by the council or a the expiration of 65 days from the date the ordinance was first submitted to the council by the clerk when there has been no final action; but if a regular election is to occur within 120 days, the council may submit the ordinance at that election. If the Council passes the proposed ordinance with amendments and at least 4/5 of the committee of electors do not express their dissatisfaction with such amended form by a statement filed with the city clerk within 10 days of the passage thereof by the council, the ordinance need not be submitted to the electors.

Subdivision G INITIATIVE BALLOTS

The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the electors actually voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the city. Any number of proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of electors voting on the question shall prevail to the extent of the inconsistency.

Subdivision H REPEAL OF ORDINANCE ADOPTED THROUGH INITIATIVE PROCESS

Any ordinance adopted by the electorate may be repealed only by vote of the electorate at a regular or special election in accordance with a resolution adopted by a two-thirds vote of the council or in accordance with petitions duly filed as required herein for the adoption of such ordinance.

Subdivision I INITIATION OF CHARTER AMENDMENTS

Nothing in this charter shall be construed as in any way affecting the right of the electors under the constitution and statutes of Minnesota to propose amendments to this charter.

REFERENDUM

Subdivision J THE REFERENDUM

Except for emergency ordinances as defined in subdivision N, no ordinance passed by the common council shall take effect until 7 days after such ordinance is published as provided in Chapter V, Section 2 of the City Charter. During such 7 day period a statement signed by any 30 electors of "Intent to Petition for Referendum" may be filed with the city clerk. The effect of filing such statement shall be to prevent such ordinance from becoming effective until 30 days after such ordinance would otherwise have become effective. If such a statement of Intent to Petition for Referendum is filed, and if before the date when the ordinance takes effect, a petition signed by qualified electors of the city equal in number to 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election is filed with the city clerk requesting that such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote or reaffirm its adherence to the ordinance as passed. In the latter case the council shall submit the ordinance at the next regular municipal election, pending which the effectiveness of the ordinance shall remain suspended. Provided, however, the council may, in its discretion, order that a special election be held on the ordinance.

Subdivision K REFERENDUM PETITIONS

The requirements laid down in Subdivision C and D above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. Each signature paper shall be in substantially the following form:

Referendum Petition

proposing the repeal of an ordinance to (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. The proposed repeal is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned petitioners, understanding the nature of the ordinance hereto

attached and believing it to be detrimental to the welfare of the city, petition the council for its repeal or submission to a vote of the electors for their approval or disapproval.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____

Subdivision L FILING OF PETITIONS AND ACTIONS THEREON

The recall petition shall be filed in the office of the city clerk as one instrument. Within five days after the filing of the petition, the city clerk shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least 10 percent of the total number of electors who cast their votes at the last preceding municipal election. If he finds the number of such signatures is less than 10 percent of the total number of electors who cast their votes at the last preceding regular municipal election, he shall at once notify one or more members of the committee of electors of that fact, certifying the reasons for his finding. The committee shall then be given 30 days in which to file additional signature papers, and during such 30 day period the effectiveness of the ordinance shall continue to be suspended. If at the end of that 30 day period the petition is found to still lack the required signatures, the clerk shall file it in his office, notify each member of the committee of electors of that fact, and the ordinance shall forthwith become effective. The final finding of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination.

Subdivision M REFERENDUM BALLOTS

The ballots used when voting upon any such ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of whether the ordinance shall become effective. If a majority of the electors actually voting on the question favor the ordinance becoming effective it shall go into effect immediately or on the date therein specified. If a majority of the electors actually voting on the question is opposed to the ordinance becoming effective, it shall not become effective.

Subdivision N EMERGENCY ORDINANCE

As used in Subdivision J above, the term "emergency ordinance" means an ordinance which is denominated as such and is adopted in response to an emergency situation which shall be described in detail in a preamble to the ordinance. An emergency ordinance is effective upon publication and shall remain in effect for the period set forth in the ordinance; provided, however, in no event shall an emergency ordinance remain in effect for more than 30 days. Pursuant to an emergency ordinance the council may not obligate the city, under contract or otherwise, for a period extending beyond the effective period of the ordinance.

Subdivision O ADOPTION OF AN ORDINANCE REJECTED THROUGH THE REFERENDUM PROCESS

Any ordinance so rejected by the electorate may be subsequently adopted only by a vote of the electorate at a regular or special election in accordance with a resolution adopted by a two-thirds vote of the city council or in accordance with the initiative process set forth in this section of the city charter.

RECALL

Subdivision P THE RECALL

Any five electors of a ward may form themselves into a committee for the purpose of bringing about the recall of any elected alderman for that specific ward. In the case of any other municipal officer who is elected by the people, any five electors within the city may form themselves into a committee for the purpose of bringing about the recall of such official. The committee shall certify to the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than two hundred and fifty words and their intention to bring about this recall. The grounds for removal shall be limited to malfeasance or nonfeasance in the performance of official duties. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Subdivision Q RECALL PETITIONS

The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every signature paper shall make an affidavit that each signature appended to the paper is the genuine signature of that person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall Petition

proposing the recall of _____, from his office as _____, which recall is sought for the reasons set forth in the attached certificate. This recall is sponsored by the following committee of electors:

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

The undersigned electors, understanding the nature of the charges against the officer herein sought to be recalled, desire the holding of a recall election for that purpose.

NAME	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator, mentioned above.

Subdivision R FILING OF PETITION

Within thirty days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the same within the next five days, and if he finds that the number of signers is less than 25 percent of the total number of electors who cast their votes at the last preceding regular municipal election, he shall so notify one or more members of the committee, certifying the reasons for his finding. The committee shall then be given ten days in which to file additional signature papers. If at the end of that time the city clerk finds the petition still lacks the required signatures, he shall notify all the members of the committee to that effect and shall file the petition in his office. The final finding by the clerk of the insufficiency of the required number of signatures shall not prevent judicial review of the clerk's determination. Under this subdivision R, the authority of the city clerk is limited to determining whether sufficient signatures are appended to the petition. The city clerk shall have no authority to determine the truthfulness of the statement of the grounds for removal submitted by the committee of electors or whether such grounds constitute malfeasance or nonfeasance in the performance of official duties.

Subdivision S RECALL ELECTION

If the petition or supplemented petition be found to contain a sufficient number of signatures the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, by motion, provide for the holding of a special recall election throughout the city or in the ward in question, not less than thirty nor more than forty-five days thereafter, provided that if any other regular municipal election is to occur within sixty days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time.

Subdivision T PROCEDURE AT RECALL ELECTION:

In the published call for the election, whether posted on bulletin boards or printed in the official paper, there shall be given the statement of the grounds for removal and also, in not more than five hundred words, the answer of the officer concerned in justification of his course in office. Candidates to succeed the officer to be recalled shall be nominated in the usual way, and the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

Subdivision U. FORM OF RECALL BALLOT

Unless the officer whose removal is sought shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall (insert name of the official whose recall is sought) be recalled from the office of _____?" The electors shall be permitted to vote separately "yes" or "no" upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy in case the recall is successful, under the caption: "Candidates to fill the place of (insert name of the official whose recall is sought) if recalled." But the officer whose recall is sought shall not himself be a candidate upon such ballot. If a majority of those actually voting on the question shall vote in favor of recalling such official, he shall be thereby removed from office, and in that event, the candidate who receives the highest number of votes for his place shall be elected thereto for the remainder of the unexpired term. If the officer sought to be recalled shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of ballot for the election of a replacement for such resigned official at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election."

That Chapter V, Section 2, Paragraph 1, of the City Charter of the City of Austin, Minnesota, be amended so as to read as follows:

"Section 2. PROCEDURE FOR ENACTMENT OF ORDINANCES. All ordinances, regulations, resolutions and bylaws shall be passed by an affirmative vote of a majority of the members of the common council present, by yeas and nays, which shall be entered upon the record of the council, approved by the mayor and attested by the city recorder, and then recorded at length by the city recorder in a separate book provided for that purpose. All ordinances shall be published at least once in the official paper of the city becoming effective as provided in Chapter II, Section 13, Subdivision J of the City Charter.

Resolutions, regulations and bylaws need be published only when required by the city council or by the laws of the State of Minnesota, and shall take effect when approved by the mayor and attested by the city recorder.

An ordinance shall not be passed at the first meeting at which it is presented to the common council, except by unanimous consent of all members present, and not then unless at least two-thirds of the members elected are present, which facts shall be noted on the record, but this shall not preclude the passage of any ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting."

That Chapter III, Section 4 of the City Charter of the City of Austin, Minnesota, be amended by adding thereto a new paragraph to read as follows:

"The procedure for the removal of officers set forth in the foregoing paragraph of this Section 4 shall not limit the people's right of recall as set forth in Chapter II, Section 13 of the City Charter."

That the Common Council of the City of Austin finds and determines the results of the election on Proposition No. 1 to be as follows:

Votes for Proposition No. 1	4,157
Votes against Proposition No. 1	1,768
Votes cast at said election	5,936
Votes necessary to carry said Proposition No. 1	2,969

That Proposition No. 1 as above set forth as proposition amending the Charter of the City of Austin be declared carried by virtue of the fact that said proposed amendment as above set forth was carried by more than the majority of the votes cast on said proposition.

That the Proposition known as Proposition No. 2 that was voted upon by the voters of the City of Austin was as follows:

EXPENDITURES AND CONTRACTS: BY ORDINANCE

That Chapter V, Section 2 of the City Charter of the City of Austin, Minnesota, be amended by adding thereto a new paragraph to read as follows:

"The following actions of the council shall be effective only if taken by the enactment of an ordinance:

- (a) any action which reasonably can be expected to require the direct or indirect expenditure of moneys in the city treasury during any one year period in an amount greater than 10 percent of the annual city budget for the fiscal year in which such action is taken.
- (b) any action which legally obligates the city of Austin, under contract or otherwise, for a period greater than 5 years."

That Chapter XIV of the City Charter of the City of Austin be amended by adding thereto a new Section 14 to read as follows:

"Section 14. The following actions of the Board of Water, Electric, Gas and Power Commissioners, Park and Recreation Board, and Library Board shall be effective only if confirmed by the enactment of an ordinance by the common council:

- (a) any action which reasonably can be expected to require the direct or indirect expenditure of moneys in the city treasury or any separate fund maintained by any such board during any one year period in an amount greater than 10 percent of the annual city budget for the fiscal year in which such action is taken.
- (b) any action which legally obligates the City of Austin, under contract or otherwise, for a period greater than 5 years.

Any ordinance enacted by the council confirming action of the type set forth in this section, shall be subject to the referendum process provided for in Chapter II, Section 13 of the City Charter.

That Chapter XI, Section 1 of the City Charter of the City of Austin, Minnesota, be amended by adding thereto the following paragraph:

"All actions taken by the Board of Water, Electric, Gas and Power Commissioners pursuant to this Chapter XI shall be subject to Chapter XIV, Section 14 of the City Charter."

That Chapter XII, Section 1 of the City Charter of the City of Austin, Minnesota, be amended by adding thereto the following paragraph:

"All actions taken by the Park and Recreation Board pursuant to this Chapter XII shall be subject to Chapter XIV, Section 14 of the City Charter."

That Chapter XIII, Section 1, of the City Charter of the City of Austin, Minnesota, be amended by adding thereto the following paragraph:

"All actions taken by the Library Board pursuant to this Chapter XIII shall be subject to Chapter XIV, Section 14 of the City Charter."

That the Common Council of the City of Austin finds and determines the results of the election on Proposition No. 2 to be as follows:

Votes for Proposition No. 2	4,244
Votes against Proposition No. 2	1,674
Votes cast at said election	5,936
Votes necessary to carry said Proposition No. 2	2,969

That Proposition No. 2 as above set forth as proposition amending the Charter of the City of Austin be declared carried by virtue of the fact that said proposed amendment as above set forth was carried by more than the majority of the votes cast on said proposition.

That the Proposition known as Proposition No. 3 that was voted upon by the voters of the City of Austin was as follows:

AUSTIN UTILITIES BOARD: ELECTIONS.

That Chapter XI, Section 1, Paragraph 1, of the City Charter of the City of Austin, Minnesota, be amended so as to read as follows:

"Section 1. BOARD OF COMMISSIONERS - ESTABLISHED: COMPOSITION: ELECTION AND TERM OF OFFICE, ETC. There is hereby created an established a Board of Water, Electric, Gas and Power Commissioners, which said board wherever referred to in this chapter, shall bear the legal name of Austin Utilities, which shall have the control and management of the water works system and the electric light plant of the City of Austin. Said board shall consist of five persons, each of whom shall be a citizen, qualified voter and freeholder of the City, who shall be elected at large by the people for a term of five years, and who shall serve without compensation. Elections to such board shall begin with the first year after 1982 that there is a vacancy on the board due to the expiration of the term of office of any board member."

That Chapter XI, Section 27 of the City Charter of the City of Austin, Minnesota, be amended by adding thereto a new paragraph to read as follows:

"The foregoing procedure for the removal of members of the Board of Water, Electric, Gas and Power Commissioners by the Common Council shall not limit the people's right of recall as provided in Chapter II, Section 13 of the City Charter."

That the Common Council of the City of Austin finds and determines the results of the election on Proposition No. 3 to be as follows:

Votes for Proposition No. 3	4,376
Votes against Proposition No. 3	1,543
Votes cast at said election	5,936
Votes necessary to carry said Proposition No. 3	2,969

That Proposition No. 3 as above set forth as proposition amending the Charter of the City of Austin be declared carried by virtue of the fact that said proposed amendment as above set forth was carried by more than the majority of the votes cast on said proposition.

This certificate is made pursuant to MSA Section 410.12 and in accordance with the provisions of the Charter of said City of Austin.

I hereby certify that the recitals of this certificate are true and that this certificate is made in duplicate.

Dated, made, and certified to at Austin, Minnesota, this 15th day of July, 1982.

Richard Benz/John

City Recorder

39120
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 23 1989

James Andrew Brown
Secretary of State