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October 5, 2012

The Honorable Bob Johnson
Mayor, City of Tamarack
P.O. Box 41
Tamarack, Minnesota 55787

Dear Mayor Johnson:

The Office of the State Auditor (“OSA”) received information regarding the unauthorized use of a City of Tamarack (“City”) debit card. The unauthorized transaction amounts have been repaid, and the debit card was cancelled. This letter summarizes the OSA’s review of the unauthorized transactions and contains recommendations for the City based upon the OSA’s review.

Unauthorized Transactions

The OSA reviewed the City’s transaction statements for the unauthorized uses of the City’s debit card. During the time period of January 2012 through July 2012, there were 17 questionable debit card transactions, totaling \$1,483.18. Nine of those transactions, totaling \$1,140, were ATM withdrawals. Six of the ATM withdrawals, totaling \$732, were made at casinos. The results of the OSA’s review are contained in Attachment A to this letter.

The 17 questionable debit card transactions were made by an elected City official who has since resigned his position with the City.

Recommendations

The OSA knows of no authority for city employees or officials to use City funds, even temporarily, for personal use. Even if the funds are repaid, the temporary borrowing of City funds is, at a minimum, an interest-free loan, which is an unauthorized use of public funds.¹

¹ The intentional unauthorized use of public funds, even for temporary use, may be considered a theft of public funds. See Minn. Stat. § 609.52, subd. 2 (5).

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Mayor, City of Tamarack
October 4, 2012
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Cities have express authority to use credit cards for City purchases.² A city's authority to use debit cards is less clear.³ Debit cards allow city funds to be immediately withdrawn from a city's financial account. In addition, debit cards provide cities with less protection than credit cards.⁴ Debit cards also circumvent the claims approval safeguards found in Minnesota law.⁵

The OSA recommends the City cancel all City debit cards. If the City obtains a City credit card, the OSA recommends that the City adopt a comprehensive credit card policy. For guidance, a copy of the OSA's Statement of Position on Credit Card Use and Policies is enclosed.⁶ Please provide the OSA with a copy of any credit card policy adopted by the City.

In accordance with Minn. Stat. § 6.50, we are sending a copy of this letter to the Aitkin County Attorney and the City Attorney. If you have any questions, please contact me at 651-282-2388 or by email at Kathy.Docter@osa.state.mn.us or Nancy Bode at 651-297-5853 or by email at Nancy.Bode@osa.state.mn.us.

Sincerely,

/s/ Kathy Docter

Kathy Docter, CPA, CFE
Office of the State Auditor

Attachment/Enclosure

cc: The Honorable Dawn Foerster, City Council Member
The Honorable Warren Marsyla, City Council Member
The Honorable John Cyrus, City Council Member
Ms. Stephanie Meld, City Clerk-Treasurer
The Honorable Jim Ratz, Aitkin County Attorney
Ms. Sherry Larson, Larson Law Firm, City Attorney

² See Minn. Stat. § 471.382.

³ See Minn. Stat. § 471.381, subd. 1 (authority to pay claims by "all forms of electronic or wire funds transfer"), *but see* Minn. Stat. § 471.381, subd. 2 (authorizes cities to accept payment by use of a credit card, debit card, and "all forms of electronic or wire funds transfer").

⁴ See, e.g., *Credit, Debit, or ACH: Consequences & Liabilities, A Comparison of the Differences in Consumer Liabilities* by Ann. H. Spiotto, Federal Reserve Bank of Chicago (September 2001).

⁵ See, e.g., Minn. Stat. § 471.38, subd. 1 (claims must be itemized and in writing).

⁶ The Statement of Position is also available on the OSA's website at:

http://www.auditor.state.mn.us/other/Statements/creditcardusepolicies_0703_statement.pdf. The City may also want to review the League of Minnesota Cities' publication *Procedures for Paying City Claims* (June, 2012), available on the League of Minnesota Cities' website, www.lmc.org (Section VIII covers credit cards).

City of Tamarack

Unauthorized Use of City Debit Card

Transaction Date	Transaction Description	Amount
1/18/2012	ATM Withdrawal 1/14 Black Bear Casino Carlton MN	\$ 102.00
1/18/2012	ATM Withdrawal 1/14 Black Bear Casino Carlton MN	\$ 202.00
3/28/2012	ATM Withdrawal 3/28 Black Bear Casino Carlton MN	\$ 42.00
4/18/2012	ATM Withdrawal 4/18 Black Bear Casino Carlton MN	\$ 42.00
4/23/2012	ATM Withdrawal 4/21 777 Grand Ave # 1 US Onamia MN	\$ 42.00
7/2/2012	Pos Purchase 6/30 Holiday Stnstore 357 McGregor MN	\$ 20.00
7/6/2012	Pos Purchase 7/6 1929 Wal-Sams US Cloquet MN Wal-Mart Super C	\$ 53.44
7/16/2012	Pos Purchase 7/15 McGregor 66 McGregor MN McGregor 66	\$ 42.18
7/17/2012	Pos Purchase 7/15 Holiday Stnstore 357 McGregor MN	\$ 39.50
7/23/2012	Pos Purchase 7/22 Northland Isanti MN Northland	\$ 46.00
7/23/2012	Pos Purchase 7/22 2101 Second Avenue US Cambridge MN Wal-Mart #2352	\$ 46.63
7/23/2012	Pos Purchase 7/23 6320 Wal-Sams US Hermantown MN Sam's Club	\$ 52.93
7/23/2012	ATM Withdrawal 7/23 2030 London Rd US Duluth MN	\$ 102.50
7/23/2012	ATM Withdrawal 7/23 2030 London Rd US Duluth MN	\$ 202.50
7/23/2012	ATM Withdrawal 7/23 Fond-du-Lac Casino Duluth MN	\$ 302.00
7/26/2012	ATM Withdrawal 7/26 111 Tamarack Boulevus Tamarack MN	\$ 103.00
7/31/2012	Pos Purchase 7/30 Aitkin MN	\$ 42.50
Total:		<u>\$ 1,483.18</u>