

WORTHINGTON CITY COUNCIL
SPECIAL MEETING

3:30 P.M. - Wednesday, October 16, 2019
City Hall Council Chambers

A. CALL TO ORDER

B. CITY COUNCIL BUSINESS - ADMINISTRATION

1. W.E.L.L. Project Land Ownership
2. W.E.L.L. Project Community Education/Library Building Ownership
3. W.E.L.L. Project City Shared and Common Space
4. W.E.L.L. Project City Share of Architectural and Engineering Design and Construction Services Memorandum of Understanding
 - a. Site Engineering
 - b. Architectural
5. W.E.L.L. Project Lease and/or Joint Operations Agreement
6. W.E.L.L. Project Joint City Council/School Board/County Commissioner Board Room

C. CITY COUNCIL BUSINESS - COMMUNITY DEVELOPMENT

1. Outdoor Aquatic Center Lease and Operations

D. ADJOURNMENT

COMMUNITY DEVELOPMENT MEMO

DATE: OCTOBER 16, 2019

TO: HONORABLE MAYOR AND CITY COUNCIL

SUBJECT: ITEMS REQUIRING CITY COUNCIL ACTION OR REVIEW

CASE ITEMS

1. OUTDOOR AQUATIC CENTER LEASE AND OPERATIONS

In November 2018, the City of Worthington voters approved a referendum to impose a 15-year, \$25 million local option sales tax by a margin of 2-1. An outdoor aquatic center was one of the identified projects. The City Council has established a subcommittee to gather and analyze information and provide recommendations to Council as to how to develop the project. In August 2019, the committee forwarded a recommendation expressing their preference of the current aquatic center location as the first choice. Council voted 3-2 to move forward with developing an expansion of the current aquatic center facility.

City staff has moved forward with discussions with MN West. MN West has advised that if the City stays within the approximately 1.7-acre optional tract within the current lease shown in Exhibit 1A, approval would be easier and timelier to obtain. The preliminary design done for the project is shown in Exhibit 1B. This design remained within the boundaries of the optional lease tract shown in Exhibit 1A. Though outside of the optional lease tract, MN West has also expressed their willingness to work with the City on the property just north of the law enforcement skills center for parking. City staff has also begun discussions with the owner of the Collegeway Apartments regarding purchasing property for a separate entrance for the aquatic center. The current YMCA ground lease was for 40 years and has 28 years remaining as of 2019. MN West has indicated that they may issue a new lease or lease amendment for up to 30 years. Any lease with a term longer than 30 years will require legislative approval. City staff believes that securing a lease for longer than 30 years may present difficulties for hitting the summer 2021 target opening date. City staff would like Council direction for a desired lease term for the outdoor aquatic center.

City staff has also engaged the YMCA staff and Board Chair in discussions about an operating contract for the aquatic center. The current operating contract is shown in Exhibit 1C. Under the terms of the current agreement:

- The City of Worthington provides no compensation to the YMCA for pool operations
- The YMCA is entitled to any revenue generated by the current aquatic center
- The City pays 100% of the capital expenses in the Aquatic Center portion of the facility as shown in Exhibit 1C
- The City pays 50% of the capital expenses in the Shared Area of the facility as shown in Exhibit 1C
- The YMCA is responsible for maintenance costs of the aquatic center facility

- The City Council and the YMCA are to meet annually and through mutual agreement establish admission rates

City staff would like to reach consensus on a framework for a new operations agreement between the City and the YMCA. The consensus reached will then be formalized and presented as a memorandum of understanding for consideration to the City Council and the YMCA at their October 28th meetings. City staff has discussed terms with the YMCA and recommends the following be considered in a new operating contract with the YMCA:

- The City of Worthington agrees to cover any operational shortfall of the outdoor pool area operations; the indoor pool operational costs are the responsibility of the YMCA. Based on similar projects in the region, City staff expects operational costs of the new facility will exceed revenue. Staff proposes that the YMCA will annually provide financials to identify the shortfall and the City will reimburse for the actual amount.
- The City pays 100% of the capital expenses of the outdoor pool facility. Capital expenses shall include, but not be limited to, aquatic play features, filters, heater, pool pump, and structural components.
- Maintenance expenses for the indoor pool component remain the responsibility of the YMCA. Maintenance expenses (noncapital expenses) shall include, but not be limited to, the following: pool chemicals, light bulbs, routine maintenance of motors and other pool equipment such as are listed in the OEM manuals.
- The City is responsible for all maintenance (noncapital) expenses of the outdoor pool facility and will be included in the outdoor facility operational costs.
- The City agrees to cost share with the YMCA for an aquatic center director position that will oversee all aquatic center operations.
- The City Council shall annually set the admission rates for the aquatic center. Consideration should be given to a separate rate for the outdoor portion.
- Consideration should be given to whether a YMCA membership will include access to the expanded outdoor facility or if an additional fee will be required for entry.
- Consideration should be given to a discounted fee for City residents who will subsidize the annual operations of the pool through the City's tax levy.
- Consideration should be given to the responsibility of future capital expenses in the shared areas (the shared entryway and the locker rooms)

Council input is requested for the framework of a new operating agreement between the City and the YMCA for the expanded aquatic facility.

SURVEY IN THE N. 1/2, S.W. 1/4, SEC. 22, T. 102 N.,
R. 40 W., CITY OF WORTHINGTON, NOBLES COUNTY, MINNESOTA

Exhibit C

PROPOSED BUILDING FOOTPRINT
LEGAL DESCRIPTION

That part of the North Half of the Southwest Quarter of Section 22, Township 102 North, Range 40 West, City of Worthington, Nobles County, Minnesota, described as

[illegible]LEGAL DESCRIPTION
UTILITY EASEMENT

A 23 foot wide Utility Easement over that part of the of the North Half of the Southwest Quarter of Section 22, Township 102 North, Range 40 West, City of Worthington, Mahoning County, Minnesota. The centerline of said easement is described as follows:

[illegible]

----- Option Tract boundary

LEASE OPTION TRACT

1.659 ACRES

7344 B2 FT.

PROPOSED BUILDING

~~REVERED 8-08-2008 TO ADD TO WIFE UTILITY EASEMENT AND ADDITIONAL FIDUCIARY WAS DONE~~

I HEREBY CERTIFY THAT THIS PLAN, SURVEY,
OR REPORT WAS PREPARED BY ME OR UNDER
MY DIRECT SUPERVISION AND THAT I AM A QUALIFIED
REGISTERED LAND SURVEYOR UNDER THE LAWS
OF THE STATE OF IOWA.

DATE: 7-27-2008 REGISTRATION NO. 13583

WORTHINGTON Y.M.C.A.

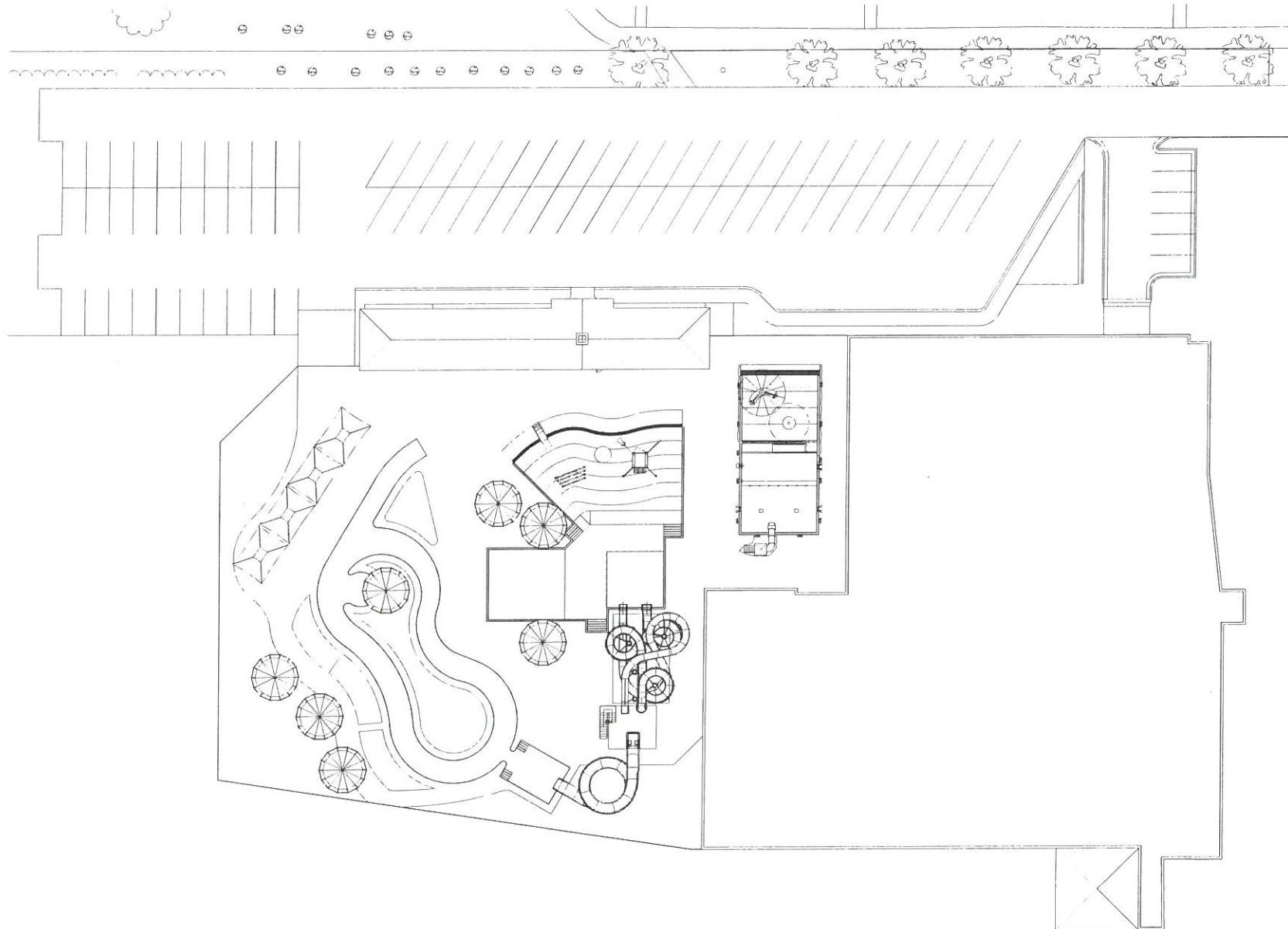
TEL: (807) 238-7393

ANDSEN
318 EAST BLUE EARTH AVENUE
DALLAS, TEXAS

Exhibit 1A



USAQUATICS
2010 FINA FINANCIAL REPORT

[illegible]

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CERTIFICATION

PRELIM

PROJECT TITLE

client

WORTHINGTON YMCA

address

TABLE 1

STATUS	Status
DRAWN	Author
CHECKED	Checker

PROJECT # **Min16001**

SCALE 1/16" = 1'-0"

SHEET NAME

SITE PLAN

© 2006 The Authors
Journal compilation © 2006 Blackwell Publishing Ltd

SHEET NUMBER

SP-101

SF-101

© USAquatics, Inc. 2015

① SITE
1/16" = 1'-0"

Exhibit 1B

OPERATING AGREEMENT

THIS AGREEMENT is entered into this 13th day of October, 2008, by and between the City of Worthington, a municipal corporation under the laws of the State of Minnesota, hereinafter referred to as "City", and the Worthington Area YMCA, a nonprofit corporation organized under the laws of the State of Minnesota, hereinafter referred to as "YMCA".

WHEREAS, the YMCA and the City of Worthington have entered into a Pre-Construction Agreement dated July 14, 2008, and an Amendment to Pre-Construction Agreement, dated September 22, both of which are incorporated herein by reference; and

WHEREAS, the YMCA and MnSCU dba Minnesota West-Worthington have entered into a Ground Lease dated October 7, 2007; and an Amendment thereto dated August 28, 2008, which documents allow the YMCA to sublet a portion of the premises to the City of Worthington both of which are incorporated herein by reference; and

WHEREAS, MnSCU and the YMCA entered into an Operating Agreement dated October 5, 2007, which is incorporated herein by reference; and

WHEREAS, contemporaneous to the execution of this Operating Agreement, the City and the YMCA will execute a Sublease between the parties which provides that the City, following construction, will become the owner of a portion of a Project to be constructed on the Minnesota West- Worthington campus; and

WHEREAS, the portion of the Project to be owned by the City shall be named the "City of Worthington Aquatic Center; and

WHEREAS, the City desires that the YMCA operate the City of Worthington Aquatic Center for the full 40-year term of the Ground Lease which exists by and between MnSCU and the YMCA;

WHEREAS, the City has determined that it is in the financial best interest of the City of Worthington to enter into a long term agreement with the YMCA to provide the same or similar services to the residents of the City as the City currently provides with the outdoor pool; and

WHEREAS, Minnesota Statute § 471.15 et seq. allows the City to enter into agreements with nonprofit organizations to provide recreation, including swimming pools.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREINAFTER CONTAINED, the parties hereto agree as follows:

1. **BINDING AGREEMENT.** It is the intention of the parties hereto that this Agreement shall be binding upon both parties.
2. **MUTUAL CONSIDERATION.** The YMCA agrees to operate the City of Worthington Aquatic Center on behalf of the City at no cost to the City, except for certain capital

expenses as defined below, for as long as the Ground Lease and Operating Agreement between MnSCU and the YMCA remain in force. In exchange for operating the City of Worthington Aquatic Center at no cost to the City, the YMCA is granted permission to utilize the Aquatic Center in part for YMCA purposes as further delineated herein. The City specifically adopts and accepts the Operating Agreement entered into by and between MnSCU and the YMCA and grants permission to the YMCA to utilize the City of Worthington Aquatic Center, along with the YMCA portion of the Facility, in accord with said Operating Agreement.

3. As the YMCA will have the obligation to pay for the operation of the Aquatic Center, the YMCA will retain all revenue derived from the operation of the Aquatic Center. The YMCA will control the use of the pool for programming purposes and have the right to set rules and regulations as to safety and conduct of Aquatic Center users. The YMCA is given the right to allow its members to utilize the Aquatic Center as a part of various categories of YMCA memberships.
4. The YMCA agrees to make the Aquatic Center available to all residents of the City of Worthington and in no case shall a resident of the City be required to be a member of the YMCA in order to utilize the Aquatic Center.
5. Representatives from the City and the YMCA will meet annually and by mutual agreement establish reasonable rates for pool use which will include separate rates for City residents and nonresidents and may provide for daily pool passes; annual pool passes; and/or summer pool passes. At the same time, the YMCA shall also seek input from and provide information to the City concerning pool programming, hours of use, and maintenance shut-down periods. The YMCA will also keep the City advised as to the rates charged by the YMCA for use of the YMCA Facility, including the Aquatic Center.
6. The parties agree and understand that the YMCA will from time-to-time, as Operator of the Aquatic Center, enter into agreements with various organizations, including but not limited to schools, churches; youth groups; families; and businesses to rent portions of the YMCA Facility and the City of Worthington Aquatic Center for private parties; group events; and education, therapy, or exercise purposes.
7. Attached hereto as Exhibit 'D' is a colored illustration of the YMCA portion of the facility; the City portion of the facility; and the shared area of the facility. The only facility expenses, except for insurance, for which the City shall be responsible will be capital expenses for those portions of the facility identified as the City of Worthington Aquatic Center and the Shared Area. The City agrees to pay 100% of the capital expenses in excess of \$1,000.00 for the City of Worthington Aquatic Center portion of the facility. The City agrees to pay 50% of the capital expenses in excess of \$1,000.00 for the Shared Area of the facility. The dollar values set forth in this paragraph shall increase by 2% each calendar year commencing on January 1, 2010. Capital expenses shall include but not be limited to: aquatic play features; filters; heater; pool pump; pool HVAC system components; structural components.

Maintenance expenses (noncapital expenses) shall include but not be limited to the following: pool chemicals; light bulbs; routine maintenance of motors and other pool equipment such as are listed in the OEM manuals. If, and when, such capital expenses arise, the YMCA agrees to notify the City immediately of a request for a specific capital expenditure and a description of same. The City shall not be responsible for any capital expense if it is required due to the sole negligence of the YMCA, its employees, agents, or users of the pool. If there is any question or disagreement between the parties as to whether or not an expenditure is a capital expense; if it is a necessary expenditure; or if the expenditure is the result of negligence, the parties will confer and come to an agreement prior to incurring the expense.

8. As a part of this Agreement, the YMCA will purchase liability insurance in a minimum amount of no less than \$1,000,000.00. The YMCA will include the City of Worthington as an additional insured and further agrees to indemnify the City of Worthington and hold it harmless in connection with all liability caused by the negligent acts or omissions of its employees, contractors, and agents as to the operation of the City of Worthington Aquatic Center.

IT WITNESS WHEREOF, this Agreement has been executed on the date first above stated.

CITY OF WORTHINGTON

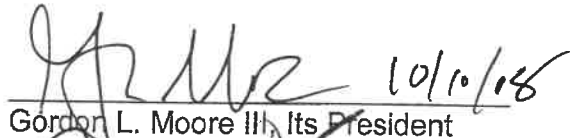
WORTHINGTON AREA YMCA

BY:



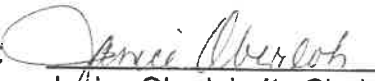
Alan E. Oberloh, Its Mayor

BY:

 10/10/18

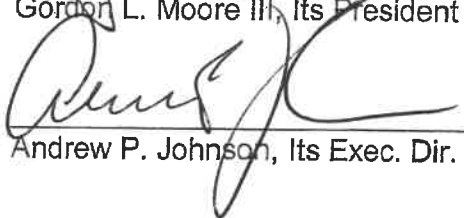
Gordon L. Moore III, Its President

BY:







Janice Oberloh, Its Clerk

BY:

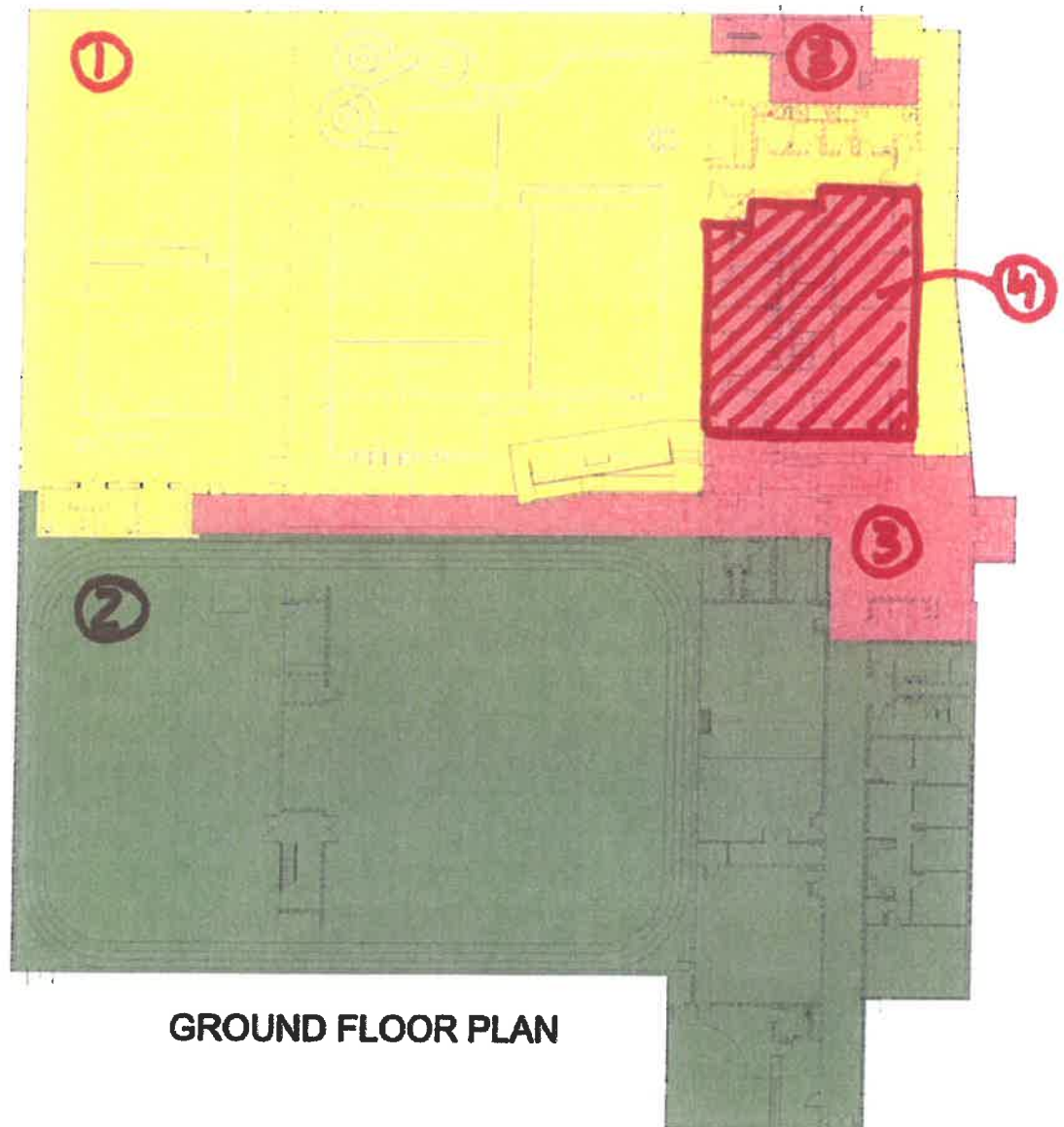


Andrew P. Johnson, Its Exec. Dir.

-  AREA 1 CITY DIRECT COST
-  AREA 2 YMCA DIRECT COST
-  AREA 3 SHARED COMMON AREA
-  AREA 4 SHARED LOCKER ROOM



SUB-GRADE PLAN



GROUND FLOOR PLAN

**CITY OF WORTHINGTON AND
WORTHINGTON AREA YMCA**

BKV
GROUP