



2. That Chief John Harrington of the SPPD, has designated me as his designee for permit determinations under Saint Paul Legislative Code § 366A.
3. That attached as **Exhibit A-1** is a true and accurate copy of 366A.
4. That since October 2006, Chief Harrington has assigned me with the task of designing, coordinating and implementing on behalf of the City (hereinafter referred to as the "City"), a public safety and security plan for the 2008 Republican National Convention (hereinafter referred to as the "2008 RNC"), to be held at the Xcel Energy Center in Saint Paul, between September 1, 2008 and September 4, 2008.
5. That it is my expectation, that the 2008 RNC will result in approximately 45,000 visitors to Saint Paul, including approximately 15,000 media persons who will be using both the Saint Paul RiverCentre convention facility and the Roy Wilkins Auditorium adjoining the Xcel Energy Center, as well as other areas in close proximity thereto, for media workspace. It is also my expectation, that most of the visitors to the 2008 RNC including but not limited to, delegates, media representatives, non-delegate attendees at the convention, protesters and curious onlookers, will be traveling to and from the Xcel Energy Center by motor coach or by foot.
6. That located within the area surrounding the Xcel Energy Center is a significant portion of Saint Paul's commercial, medical (including two of Saint Paul's three major hospitals) and cultural districts, as well as some of its most heavily traveled streets and points of freeway ingress and egress for a substantially large number of

persons who travel in and out of downtown Saint Paul on a daily basis.

7. That on March 5, 2007, the Secretary of the United States Department of Homeland Security, pursuant to federal law, designated the 2008 RNC as a "National Special Security Event" (hereinafter referred to as an "NSSE"). Attached as **Exhibit A-9**, is a true and accurate copy of a letter dated March 5, 2007, from Michael Chertoff, the Secretary of the U.S. Department of Homeland Security, to Governor Tim Pawlenty, designating the 2008 RNC as a National Special Security Event (NSSE). As such, federal law, including 18 U.S.C. § 3056(e), requires that special precautions and safety measures will need to be developed and undertaken by the United States Secret Service (hereinafter referred to as the "USSS") with regard to securing the inside of the Xcel Energy Center and the area immediately surrounding it. As the SPPD is responsible for securing and making safe, the area outside of the Xcel Energy Center, the SPPD as part of its security planning for the 2008 RNC, will need to confer and coordinate with the USSS, along with other federal, state and local law enforcement agencies.

8. That in designing, coordinating and implementing the City's security plan for the 2008 RNC, I must extensively confer and coordinate with many necessary and/or affected parties, including, but not limited to emergency responders and area hospitals, downtown residents and businesses, public transportation carriers, federal, state and local law enforcement agencies.

9. That as part of my security planning efforts for the 2008 RNC, my staff and I have met with law enforcement officials with the cities of Boston, Massachusetts, New York City, New York, Washington D.C., Los Angeles, California, Seattle, Washington and Oslo, Norway, who have been involved in security planning for various high level, national and international events held in the cities, including the Democratic and Republican National Conventions respectively held in Boston and New York City in 2004, to learn about, and discuss the designing, coordination and implementation of various security plans used by those cities with regard to such events.

10. That attached as **Exhibit A-2** is a true and accurate copy of a SPPD Permit Application pursuant to 366A, from the Plaintiff to March on the RNC to Stop the War, ("Coalition"), served on the SPPD, November 1, 2007; with the application was a document titled, "MARCH ON THE RNC TO STOP THE WAR! MONDAY, SEPTEMBER 1, 2008."

11. That attached as **Exhibit A-3** is a true and accurate copy of the letter I sent to Sarah Martin on November 21, 2008, in response to the Permit Application she submitted to the SPPD, on behalf of the Plaintiff .

12. In November 2007, the SPPD first informed Plaintiff that because of the developing nature of the security planning process, the SPPD could not make the necessary objective, findings required under §366A.06(a), that would allow it to grant or deny the permit applications. The SPPD also provided the first of repeated assurances to

Plaintiff that it would be issued a permit to conduct a march on September 1st within sight and sound of the Center. The only matters for which the SPPD did not have sufficient information upon which it needed to make the necessary §366A.06 findings, related to the exact march route and time. Pursuant to §366A.08(a), the deadline by which the SPPD was required to either deny or grant the Original and Amended Applications was "no less than 48 hour prior to the event," or August 29, 2008.

13. That on December 10, 2007, I, along with Saint Paul Mayor Chris Coleman, City Attorney John Choi, Assistant City Attorney's John Kelly and Reyne Rofuth and City Marketing Director Erin Dady, met with attorneys for the Plaintiff, Robert J. Hennessey, and William Pentelovitch, Terry Nelson from the Minnesota-ACLU, Bruce Nestor on behalf of the National Lawyers Guild, and other representatives of the Plaintiff, including Jess Sundin, Marie Braun, Meredith Aby, Nick Kelly, and Deb Knitchner, to discuss the Plaintiffs application seeking a permit to conduct a "rally and march" on September 1, 2008, the opening day of the 2008 RNC (hereinafter referred to as the "Permit Application"). During this meeting, I committed to the Plaintiff that once I had enough information that would enable me to make the findings necessary to issue a permit pursuant to 366A.06(a), that I would issue it a permit to conduct a parade that would commence and terminate using the City-controlled streets and sidewalks in the State Capitol area, and progress on a route that would put the Plaintiff within sight and sound of the Xcel Energy Center.

14. That on January 3, 2008, I, along with Assistant City Attorneys' John Kelly and Reyne Rofuth and City Marketing Director Erin Dady, met with attorneys for the Plaintiff, Bruce Nestor, Robert J. Hennessey, William Pentelovitch and Christopher Sur, and other representatives of the Plaintiff to discuss the Permit Application. During this meeting, I again committed to the Plaintiff that once I had enough information that would enable me to make the findings necessary to issue a permit pursuant to 366A.06(a), that I would issue it a permit to conduct a parade that would commence and terminate using the City-controlled streets and sidewalks in the State Capitol area, and progress on a route that would put the Plaintiff within sight and sound of the Xcel Energy Center. I further committed that I would expedite the SPPD's public safety, security and transportation planning process to a point that would allow me to make the necessary findings in the Spring of 2008.

15. That on January 17, 2008, I, along with Assistant City Attorney John Kelly, met with attorneys for the Plaintiff, Bruce Nestor, Robert J. Hennessey, and Jeffrey Storms, to discuss the Permit Application. During this meeting, I again committed to the Plaintiff that once I had enough information that would enable me to make the findings necessary to issue a permit pursuant to 366A.06(a), that I would issue it a permit to conduct a parade that would commence and terminate using the City-controlled streets and sidewalks in the State Capitol area, and progress on a route that would put the Plaintiff within sight and sound of the Xcel Energy Center. I further committed that I would

expedite the SPPD's public safety, security and transportation planning process to a point that would allow me to make the necessary findings in May, 2008.

16. That attached as **Exhibit A- 4** is a true and accurate copy a letter and proposed agreement I received from Jeffrey S. Storms, one of the Plaintiffs attorneys, on January 25, 2008; the agreement is titled: AGREEMENT GRANTING THE COALITION TO MARCH ON THE REPUBLICAN NATIONAL CONVENTION'S APPLICATION FOR RECURRING PERMIT (hereinafter referred to as the "Proposed Agreement").

17. That, both in response to the Proposed Agreement, and in anticipation that persons and groups other than the Plaintiff, will also likely seek permits to conduct similar parades on September 1, 2008, the SPPD promulgated "Guidelines Regarding Issuance Of Permits To Conduct Parades Pursuant To Section 366A Of The City Of Saint Paul, Minnesota On September 1, 2008" (hereinafter referred to as the "9-1-08 Parade Guidelines"). The 9-1-08 Parade Guidelines were promulgated by the SPPD, in good faith, to provide meaningful planning guidance to, and accommodate the reasonable planning needs of all persons and groups who wish to conduct parades pursuant to Section 366A of the Code, within the vicinities of the State Capitol and the Xcel Energy Center on September 1, 2008. The 9-1-08 Parade Guidelines also serve as a prospective, yet constructive, administrative application by the SPPD, of the findings required to be made under Section 366A.06 of the Code, based upon the best information known to the SPPD at the present time. The 9-1-08 Parade Guidelines are not intended to provide the

SPPD with authority, not otherwise allowed by Section 366A.

18. That on February 13, 2008, I, along with Assistant City Attorney's John Kelly and Reyne Rofuth, met with attorneys for the Plaintiff, Bruce Nestor, Robert J. Hennessey and Jeffrey S. Storms to discuss among other things, the Proposed Agreement and a draft of the 9-1-08 Parade Guidelines. At the February 13, 2008, meeting, lawyers for the Coalition asked if the SPPD could provide the Coalition on March 1, 2008, with a "conditional" or "preliminary" permit that would allow it to conduct its march on September 1, 2008, from the State Capitol to "within sight and sound of the Xcel Energy Center," subject to the SPPD designating the specific route and time period by which the parade must be conducted, no later than May 31, 2008. The lawyers for the Coalition also asked if they could provide written comments to the 9-1-08 Parade Guidelines. Plaintiff never provided comments, or sought further dialogue with the City regarding the guidelines. I, along with the other City representatives encouraged the submission of such comments, along with a map depicting the streets in the State Capitol area that the Plaintiff wished to use as a non-exclusive public assembly and parade staging area. However, I, along with the other City representatives, cautioned that such information must be provided in advance of March 1, 2008, so they could be incorporated in the final 9-1-08 Parade Guidelines that would be made available to other persons and groups wishing to conduct such a parade on September 1, 2008.

19. That on March 1, 2008, the SPPD, at the request of the Plaintiff and in recognition

and accommodation of the Plaintiff's own planning efforts, provided a Conditional Alternative Permit (hereinafter referred to as the "Conditional Alternative Permit") to the Plaintiff, consistent with, and subject to, the conditions and provisions contained in the 9-1-08 Parade Guidelines.

20. That the Conditional Alternative Permit is not intended to serve as an actual or final permit as contemplated under, and typically issued pursuant to, Section 366A of the Code. Instead, the Conditional Alternative Permit is intended to serve as a good faith statement of intent on the part of the SPPD based upon its best presently known information. Additionally, the Conditional Alternative Permit, is intended to serve as the "preliminary" or "conditional permit" that has been repeatedly requested by the Plaintiff.

21. That attached as **Exhibit A-5** is a true and accurate copy of the 9-1-08 Parade Guidelines provided to the Plaintiff on March 1, 2008.

22. That attached as **Exhibit A-6** is a true and accurate copy of the Conditional Alternative Permit provided to the Plaintiff on March 1, 2008.

23. That on March 1, 2008, the SPPD also promulgated "Guidelines Regarding Issuance Of Permits To Conduct Parades Pursuant To Section 366A Of The Saint Paul Legislative Code In Certain Areas Of The City Of Saint Paul, Minnesota On August 30-31, 2008, And September 2-4, 2008" and "Guidelines Regarding The Conduct Of Public Assemblies Pursuant To Section 366A Of The Saint Paul Legislative Code In Certain Areas Of The City Of Saint Paul, Minnesota Between September 1-4, 2008."

24. That on May 14, 2008, the SPPD issued an alternate Permit (hereinafter the "Permit") to Plaintiff denied Plaintiff's original permit application. The SPPD's decision to issue the Alternate Permit, rather than grant Plaintiff's original permit application, was done to promote the City's significant interest in ensuring public safety and order, and the safe and orderly movement of pedestrian and vehicular traffic in that area. The route provided in the Permit is in substance, one of the two possible routes I presented to Plaintiff in January 2008.

25. That reasons for the SPPD decision, and that were provided to Plaintiff, include:

(A) to provide sufficient stand off space needed to minimize the effect the possible detonation of explosive devices can have on the Xcel Energy Center;

(B) the need: (a) to reflect the geography of the area surrounding the Xcel Energy Center and the amount of space necessary to secure the area, including the space necessary to conduct effective and orderly magnetometer searches of each credentialed attendee and vehicle; and (b) for space necessary to evacuate the facility in case of emergency, including space needed for medical triage and hazardous materials management; and (c) for space necessary to ensure unimpeded ingress and egress by emergency vehicles between the facility and area hospitals;

(C) the need to enable the safe and orderly, multiple-times-per-day movement of over approximately 100,000 persons anticipated to be in that area on September 1st, including area residents, visitors and approximately 45,000 RNC attendees, including the

Republican Party's 2008 nominees for President and Vice President and numerous government officials who require protection pursuant to federal laws, traveling to and from the Xcel Energy Center using a highly secured transportation system involving hundreds of busses and automobiles.

26. That the exact 2:00 PM start time requested in Plaintiff's Amended Permit Application could not be granted due to the SPPD's need to have the 5th Street portion of the route cleared no later than 2:00 PM. This is required so as to enable the SPPD to maintain maximum unimpeded vehicular access for emergency vehicles and busses to and from I-94 while the convention is in session.

27. That when the City asked during the May 21st Council hearing, how long of a period time the Plaintiff wanted to conduct its March, the Plaintiff's spokesperson, Meredith Aby, responded - "four hours."

28. That the route authorized by the Permit places marchers within the very shadows of the glass-windowed, front of the Xcel Energy Center. A portion of the route proceeds as close as approximately 84 feet from one of the two main points of entry for credentialed attendees of the 2008 RNC. A portion of the route will also proceed as close as approximately 40 and 60 feet respectively, to two of the three media work spaces likely to be used during the convention. All along the 5th and Old 6th Street portions of the route, and for a significant stretch of 7th Street, the glassed front of the Xcel Energy Center is well within the sight and sound of the marchers. Moreover, the time by which

the march will be required to complete its pass on 5th Street will require a parade start time that is only approximately two hours earlier than the time sought by the Applicant in its permit application.

29. That the streets the SPPD will close to accommodate the march authorized in the Permit are some of downtown Saint Paul's widest and most heavily traveled thoroughfares. 7th Street West is the primary east-west surface street in downtown Saint Paul. It serves as the most direct and convenient surface connector for residents, employees and business travelers between the city's downtown and East Side and the Twin Cities International Airport and the Mall of America. Cedar Street is a major north-south connection for vehicular and public bus transportation. Old 6th and 5th Streets effectively serve as elongated downtown entrance and exit ramps to 1-94.

30. That the City also regularly facilitates events of equal or larger size than the march authorized by the Permit, on public ways of smaller or similar size, For example, one day each year approximately 150,000 plus people gather on a long stretch of Grand Avenue, for "Grand Old Day." Other large parades include the annual Saint Patrick's Day and the Winter Carnival Grand Day parades. Most recently, it took only approximately 90 minutes for an estimated 35,000 persons to proceed in a safe and orderly manner along approximately one mile of roughly five (5) foot wide downtown sidewalks to attend a public rally at the Xcel Energy Center for Senator Barack Obama.

31. That Plaintiff never expressly requested the use of any City-controlled streets and

sidewalks adjacent to the State Capitol grounds for purposes of the Rally in any of its permit applications to the SPPD. However, at Plaintiff's verbal request, the SPPD agreed to make those streets and sidewalks described in the alternate permit available for a public assembly. The City also agreed to help facilitate the Plaintiff's intent to place vendors, portable restrooms, a public stage and motor coach parking in the Rally area. In order to accommodate all persons wishing to similarly exercise their rights to free speech, the SPPD did not want to deny use of the streets and sidewalks in the Rally area to persons and groups other than the Plaintiff. It is for this purpose the SPPD designated the alternate permit as non-exclusive, as it applies to those public ways.

32. That in addition to the access provided by the Permit, the SPPD has also designated a large area directly adjacent to the Xcel Energy Center, to accommodate demonstrations and other First Amendment activities during the week of the RNC. The public viewing area (PVA) is directly across 5th Street from the Center, a media workspace, and the security checkpoint by which it is presently estimated that 90% of the delegates will be passing on their way to and from the Center. The PVA will also abut a media workspace presently expected to be located in the Traveler's Co. parking lot. The chain-link style fencing used in the PVA will be transparent, so that persons and objects are visible on either side. The PVA will also be clearly visible from persons inside the Center.

33. That no permits will be required to gain entry to the PVA will be available to the general public on a first-come, first-served basis, from 7:00 AM to 11:00 PM. In order to further facilitate First Amendment activity, the City will equip the PVA with a stage, a sound system, restroom facilities, and water. The stage will be available for one-hour allotments between the hours of 7:00 A.M. and 11:00 P.M. from Monday, September 1, through Thursday, September 4, 2008. The City will develop and conduct a lottery system to allocate time slots for use of the stage and sound system.

34. That in order to maintain public safety both in the vicinity of the Xcel Energy Center and throughout all of Saint Paul during the 2008 RNC, the SPPD will need to temporarily supplement its own force of approximately 600 total licensed peace officers, with approximately 3,000 additional licensed peace officers from numerous state and local law enforcement agencies other than the SPPD. This force supplementation process required that the City to enter into a joint powers agreement (hereinafter referred to as a "JPA") with each unit of government that bears legal authority for authorizing its law enforcement agency to provide temporary assistance to the SPPD during the 2008 RNC.

35. That although the SPPD has diligently begun the planning and coordination processes as described above, such planning is not yet-completed. In fact, it is my understanding that it is not uncommon that refinements and adjustments are frequently

needed to be made to the planning and coordination processes for NSSE's of the substantial size and significance of a national political convention, as late as the last day of the event.

36. That among the extraordinary planning efforts that are needed to be undertaken by the SPPD, relates to the critical issue of ensuring the safe and orderly movement of approximately 45,000 pedestrians and related vehicular traffic, within the area of the Xcel Energy Center during the 2008 RNC. Meetings have begun between the City, the SPPD and all of the other numerous necessary and/or affected parties such as emergency responders and area hospitals, downtown residents and businesses, and public transportation carriers, in which the myriad of issues and concerns related thereto, will be thoroughly and substantively addressed and discussed. Integral to this aspect of the SPPD's planning efforts is the participation of the person[s] utilized by the organizers of the 2008 RNC to serve as the transportation coordinator (hereinafter referred to as the "RNC Transportation Coordinator").

37. That the RNC Transportation Coordinator is responsible for transporting approximately 18,000-20,000 delegates and other credentialed guests to and from the Xcel Energy Center on a daily basis throughout each of the four (4) days of the 2008 RNC. It is presently anticipated that many, if not most, of the delegates and credentialed guests, will be traveling to and from the Xcel Energy Center on each day of the convention, on as many as 300 motor coaches.

38. That at various times throughout each day of the RNC, it is expected that approximately 45,000 persons will be in the Xcel Energy Center, the RiverCentre convention complex, and two (2) additional media work spaces directly across from the XcelEnergy Center. The glassed front of the Xcel Energy Center is located on Seventh Street West. The sides and the rear of the Xcel Energy Center are respectively flanked by the Public Ways (which for purposes of my affidavit include:  
Kellogg Boulevard south of I-35E to Washington Street; 7<sup>th</sup> Street West between Kellogg Blvd. and 5<sup>th</sup> Streets; and portions of 5<sup>th</sup> Street south of 7<sup>th</sup> Street West the stretch of West 7<sup>th</sup> Street in front of the Xcel Energy Center) and the RiverCentre. The RiverCentre is physically attached to the Xcel Energy Center, and will serve as one of three primary work spaces for approximately 15,000 members of the media covering the RNC. The additional media work spaces will be located on The Travelers Companies parking lot located at the intersection of 5th and 7th Streets West, and on the Cleveland Circle site located directly across 7th Street West from the Xcel Energy Center. All of these media work spaces will contain hundreds of trailers and tents for local, national and international media, and will operate twenty-four hours, for each day of the RNC.

39. That using recent national political conventions as a guide, the logistical aspects of effecting a transportation plan for the 2008 RNC, in a manner that allows for the safe and orderly arrival and departures of the motor coaches and their passengers, from the Xcel Energy Center each day, while also conducting extensive security inspections in or

