

# Business Item

Metropolitan Parks and Open Space Commission



Community Development Committee Meeting: June 16, 2025 For the Metropolitan Council: June 25, 2025

## Business Item: 2025-125

Grand Rounds Missing Link Regional Trail, Park Acquisition Opportunity Fund Award (Wall), Minneapolis Park and Recreation Board

<b>District(s), Member(s):</b>	District D, David Yakes District 7, Yassin Osman
<b>Policy/Legal Reference:</b>	Minn. Const. art. XI, sec. 15; Minn. Stat. § 473.315; 2040 <i>Regional Parks Policy Plan</i> , Chapter 4, Siting and Acquisition Policy- Strategy 1; Chapter 5, Planning Policy- Strategy 1; Chapter 8, Finance Policy- Strategy 7. FM 15-2 Grant/Loan Approval Policy, FM 14-2 Expenditures for the Procurement of Goods and Services Policy.
<b>Staff Prepared/Presented:</b>	Jessica Lee, Planning Analyst, 651-602-1621
<b>Division/Department:</b>	Community Development / Regional Planning

## Proposed Action

That the Metropolitan Council:

1. Approve a grant of up to \$2,910,158 from the Park Acquisition Opportunity Fund to the Minneapolis Park and Recreation Board to acquire the West Park and East Park parcels totaling 1.4 acres located at 525 Malcolm Avenue South in Minneapolis, MN, for the Grand Rounds Missing Link Regional Trail.
2. Authorize the Executive Director of Community Development to execute the grant agreement and restrictive covenant on behalf of the Council.

## Background

### ***Regional Park Implementing Agency and Project Request***

The Minneapolis Park and Recreation Board requested a Park Acquisition Opportunity Fund (PAOF) grant on November 8, 2024, to fund the acquisition of two small parcels (West Park and East Park) totaling 1.4 acres for the Grand Rounds Missing Link Regional Trail. A copy of the Agency's request is attached to this item as Exhibit 2 with application details in Exhibit 3.

The Grand Rounds Missing Link Regional Trail is part of the Grand Rounds Parkway System and is the only uncompleted section. The Missing Link will travel between St. Anthony Parkway in Northeast Minneapolis and East River Parkway in Southeast Minneapolis (see Exhibit 1, Figures 1, 2 and 3).

### **Subject Property**

The subject property is within the Council-approved boundary of the Grand Rounds Missing Link Regional Trail. This part of Minneapolis is a mix of residential, commercial, and industrial uses and the acquisition of the subject property - parcels West Park and East Park - will provide crucial trail connections as well as restored nature to a neighborhood that lacks green space (see Exhibit 1, Figure 4).

### **Park Acquisition Opportunity Fund (PAOF)**

The Council's Park Acquisition Opportunity Fund (PAOF) Program provides funding to purchase property and easements via two state sources: the Parks and Trails Legacy Fund (PTLF) and the Environment and Natural Resources Trust Fund (ENRTF). The Council contributes by matching every \$3 in state funds with \$2 in Council funds. The \$3 to \$2 match is required at the program level, not the individual project level.

State and Council funds contribute up to 75% of the purchase price and eligible costs; the Regional Park Implementing Agency (Agency) contributes the remaining 25% as local match.

### **Project Budget**

The appraised value of the subject property is \$3,720,100, and the Seller has agreed to a lower amount of \$3,437,404. See Exhibit 4 for more information on the appraisal. The total project cost including legal fees, taxes, and appraisal is \$3,880,210, as shown in Table 1 below.

*Table 1. Project Budget*

<b>Budget item</b>	<b>Requested amount</b>
Appraised value	\$3,720,100
Appraisal, legal fees, taxes, closing costs	\$160,110
<b>Total Costs</b>	<b>\$3,880,210</b>
 <b>Grant structure</b>	
Grant amount	\$2,910,158
Local match	\$970,052

### **Acquisition Details**

This is a straightforward fee title acquisition of a former industrial site. The site will be cleaned prior to acquisition. A trail easement connecting the West Park and East Park parcels will also be obtained but is not part of this grant request (see Exhibit 1, Figure 4).

### **Rationale**

Council staff conduct the review of each PAOF request on a first-come-first-served basis under the following standards:

- the proposed acquisition complies with state statute and Council policy
- all necessary documentation for the acquisition is in place
- the appraisal is reasonable and appropriate

This acquisition is consistent with:

- The Environment and Natural Resources Trust Fund
- The Parks and Trails Legacy Fund
- The *2040 Regional Parks Policy Plan*
  - Planning Policy Strategy 1 requires that before an Agency can receive a grant for acquisition, the proposed project must be consistent with a Council-approved long-range plan. The Council approved the Grand Rounds Missing Link Regional Trail long-range plan amendment in 2019 ([Business Item 2019-226](#)). The proposed acquisition is within the boundaries of the approved long-range plan.

- Siting and Acquisition Strategy 1 prioritizes the acquisition of lands with natural resource features, access to water, and/or restoration potential for the Regional Parks System. The subject property is necessary to complete the Grand Rounds Missing Link Regional Trail, has restoration potential, and will provide green space in an industrial neighborhood.
- Finance Strategy 7 authorizes the use of PAOF as the funding mechanism for the acquisition of Regional Park and Trail lands and matching every \$3 in state funds with \$2 in Council bonds.

### Thrive lens analysis

On February 12, 2025, the Council adopted Imagine 2050, which builds on the policy direction in Thrive MSP 2040. Under the Thrive lens, this request is consistent with Thrive MSP 2040's Livability and Stewardship outcomes. The Council's investment in the Grand Rounds Missing Link Regional Trail will provide access to nature and the outdoors and enhance quality of life in the region.

### Funding

The Council will fund the 75% share with the Environment and Natural Resources Trust Fund, the Parks and Trails Legacy Fund, and Council funds. The PAOF program has available funds in the Council's Authorized Capital Program.

The Minneapolis Park and Recreation Board will provide a local match of \$970,052.

### Exhibit List

- Exhibit 1: Images
- Exhibit 2: Grant request letter
- Exhibit 3: Grant application
- Exhibit 4: Appraisal excerpt
- Exhibit 5: Board approval
- Exhibit 6: Purchase agreement



## Exhibit 1 – Images

Figure 1. Map of the Regional Parks System with the location of the Grand Rounds Missing Link Regional Trail starred in red

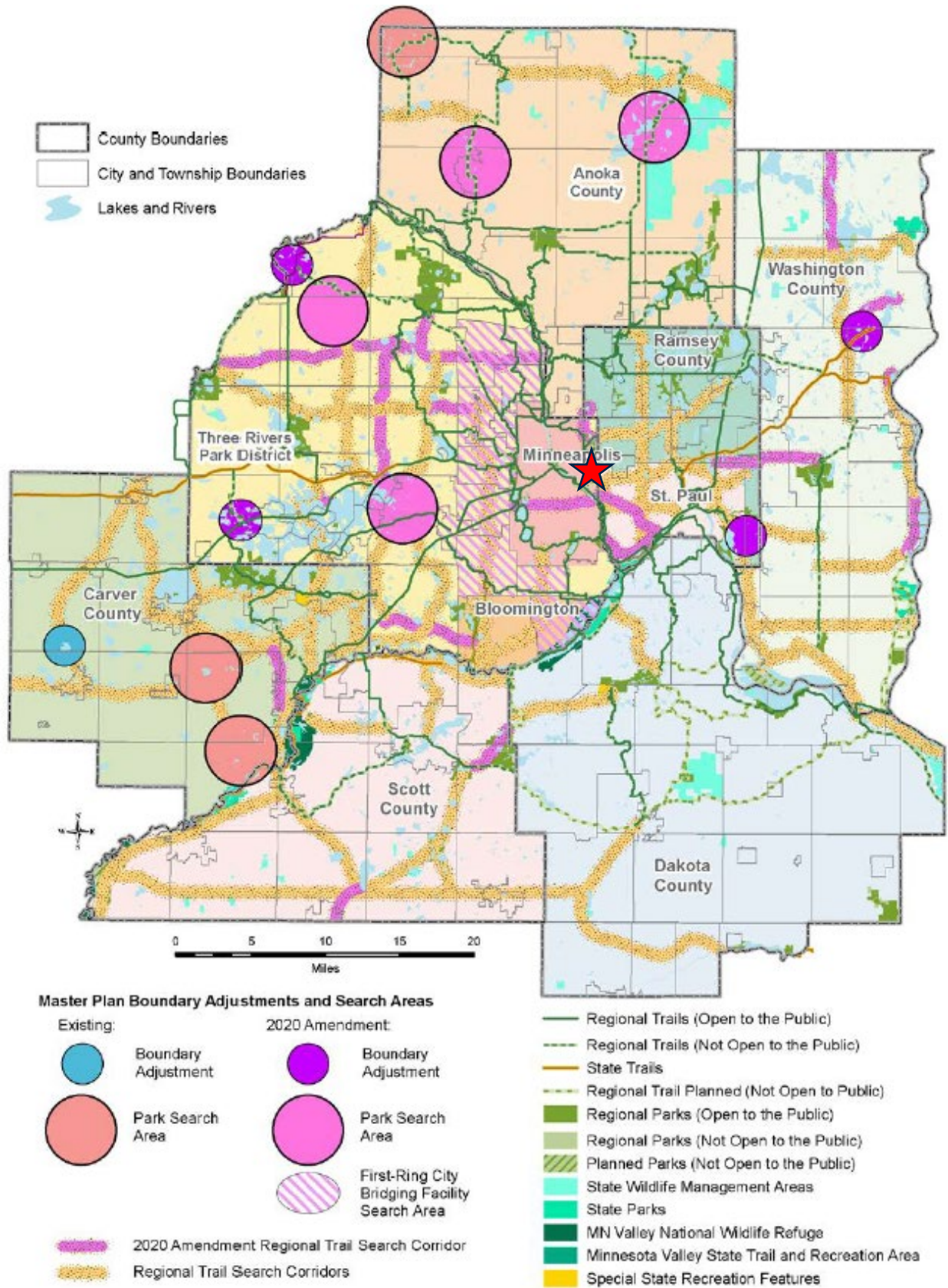




Figure 2. Map of the Minneapolis Regional Parks and Trails System with the Grand Rounds Missing Link Regional Trail circled in red

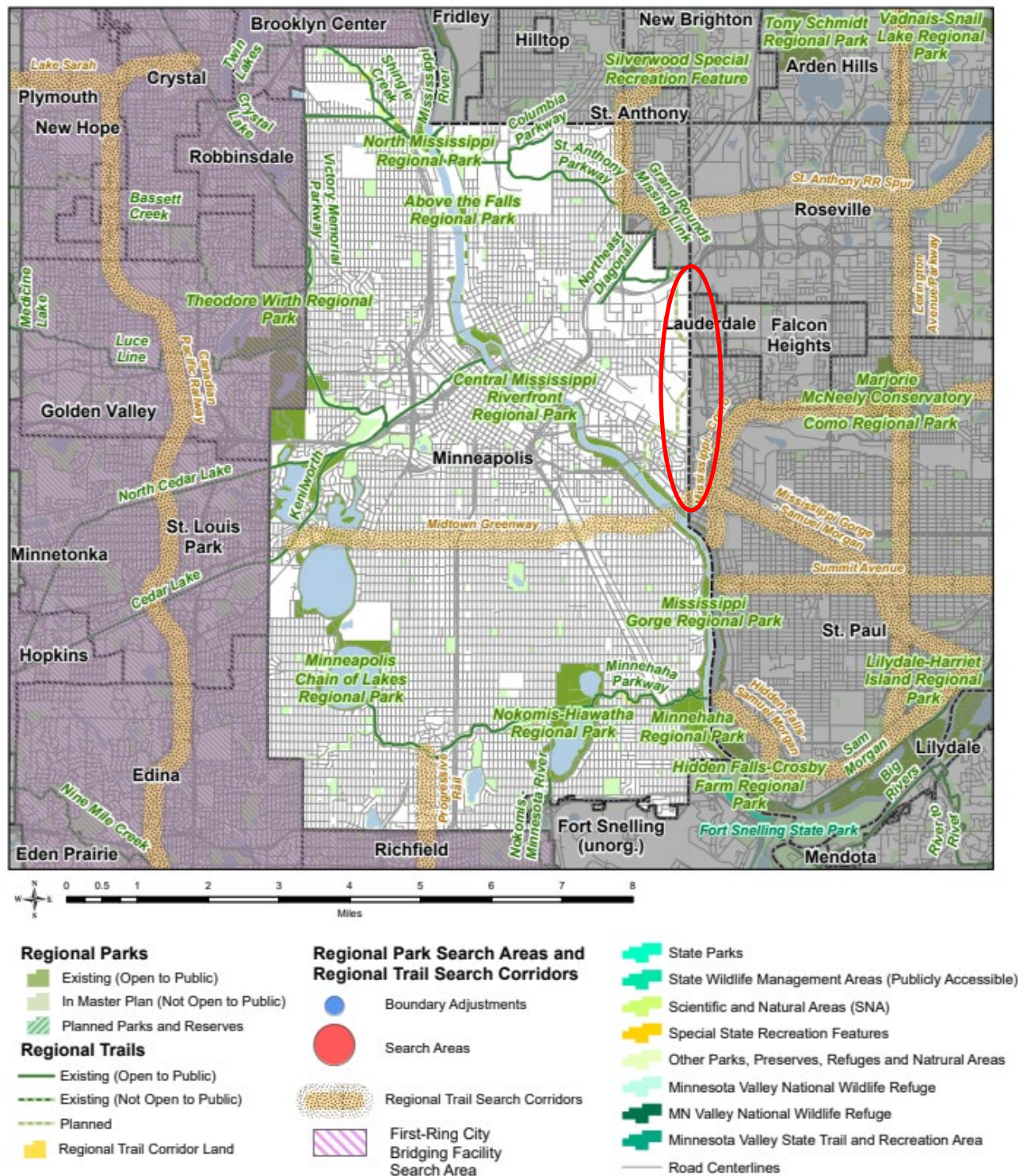
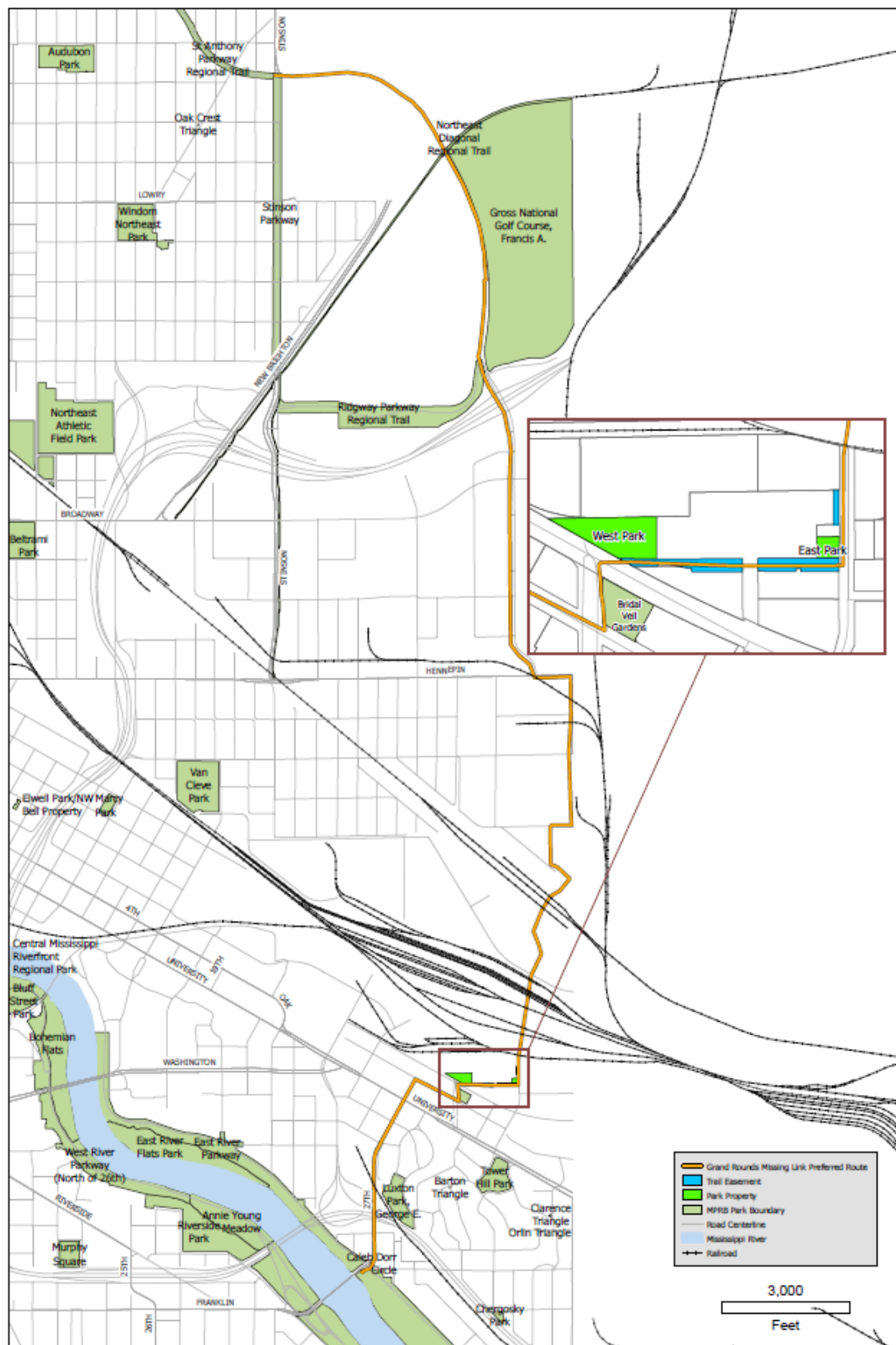


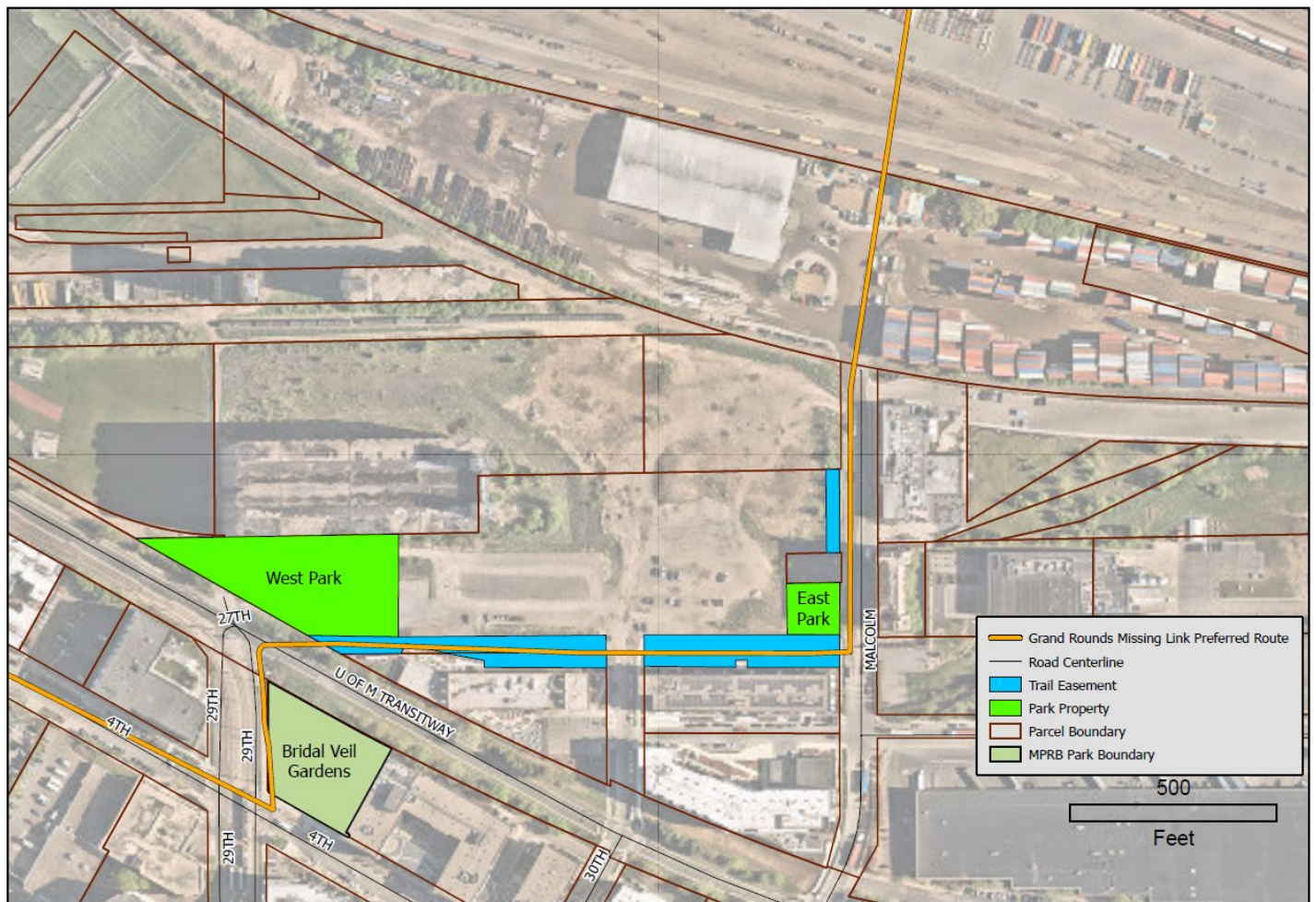
Figure 3. Map of the Grand Rounds Missing Link Regional Trail and the subject West Park and East Park parcels



Grand Rounds Missing Link Regional Trail:  
Preferred Route with Malcom Yards 2nd Addition



Figure 4. Close-up image of the subject West Park and East Park parcels within the Grand Rounds Missing Link Regional Trail.



## Grand Rounds Missing Link Regional Trail: Malcom Yards 2nd Addition



Metropolitan Council

## Exhibit 2: Grant request letter



### **Minneapolis** **Park & Recreation Board**

**Administrative Offices**  
2117 West River Road North  
Minneapolis, MN 55411-2227

**Northside Operations Center**  
4022 1/2 North Washington Avenue  
Minneapolis, MN 55412-1742

**Southside Operations Center**  
3800 Bryant Avenue South  
Minneapolis, MN 55409-1000

**Phone**  
612-230-6400

**Fax**  
612-230-6500

[www.minneapolisparks.org](http://www.minneapolisparks.org)

November 8, 2024

Mr. Emmett Mullin, Manager  
Regional Parks and Natural Resources  
Metropolitan Council Community Development  
390 Robert Street North  
Saint Paul, MN 55101

Re: Parks Acquisition Opportunity Fund Request for MPRB's Grand Rounds Missing Link Regional Trail

Dear Mr. Mullin:

The Minneapolis Park and Recreation Board (MPRB) would like to formally request a grant from the Park Acquisition Opportunity Fund (PAOF) in the amount of \$2,910,158 to acquire a portion of the Grand Rounds Missing Link Regional Trail. This specific request will be matched by \$970,052 in local funding from MPRB and the Mississippi Watershed Management Organization, and donated land value. MPRB proposes to use the PAOF to acquire two parcels in close proximity, as part of a larger multi-faceted deal with a major developer in the Prospect Park neighborhood of Minneapolis. The parcels together total 60,000 square feet (1.38 acres) and are both currently part of a single parcel that will be subdivided prior to closing. That parcel's address is 525 Malcolm Ave SE, Minneapolis, MN 55414.

In addition to these two parcels, MPRBV has worked with Wall Development to secure a trail easement connecting them together and extending farther northward. These "trail corridor" parcels constitute another 45,350 square feet (1.04 acres). Though not part of this grant request financially, we feel it is important to share that all these parcels will be acquired simultaneously, thereby implementing a critical reach of the Missing Link through a property poised for rapid development. Wall Development has been a long-term and creative partner in this work. Overall, this is a complicated deal with multiple funding sources: cash, in-kind, grants, ordinance leverage, in-house services, developer services, and park dedication fees.

In the context of this overall agreement scheme, MPRB feels it is most appropriate to activate PAOF funding for the two "park parcels," both of which are being acquired as fee-title parcels to MPRB.

Please contact me directly if you have questions with this request.

Respectfully,

Adam Regn Arvidson, PLA, FASLA  
Director of Strategic Planning  
Minneapolis Park and Recreation Board

**President**  
Meg Forney

**Vice President**  
Cathy Abene, P.E.

**Commissioners**  
Becky Alper  
Billy Menz  
Steffanie Musich  
Tom Olsen  
Charles Rucker  
Elizabeth Shaffer  
Becka Thompson

**Superintendent**  
Al Bangoura

**Secretary to the Board**  
Jennfier B. Ringold





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County:\*   p

Henne in

Phone:\*   p

612-230-6420   p

Ext.

Fax:   p

PeopleSoft Vendor Number   p

0000002639A4

## Project description

PAOF grants are limited to a single park or trail. Do not mix properties from more than one park or trail on a single request.

Park or trail name

Grand Rounds Missing Link RT-Minneapolis Park &amp; Rec. Board

Master plan

An acquisition request will not be considered complete until the property is included in a Council-approved master plan.

Is the project consistent with a Council-approved master plan?   p

Yes

If yes, name of master plan and date of Council approval   p

Grand Rounds Missing Link Regional Trail Plan   p      07/01/2019

Name of master plan   p

Council approval date - Format: mmddyyyy (Do not enter any punctuation.)

If no, has a master plan amendment been submitted to the Council for review and approval?

Acquisition method

Acquisition method   p

Fee title, Park dedication fees, Donation

If the acquisition method is anything other than routine, provide more detail.

This question seeks a general description of the acquisition method - is this a routine purchase, or does it involve a land donation, park dedication fees, condemnation, or some combination? Please use this space to describe the overall acquisition **project**.

The requested grant support is for one portion of a significant land transaction with a single developer, who owns a large tract of land in the vicinity. The deal is best understood in three parts:

-- WEST PARK is an approximately 52,000 square foot parcel with an abandoned building that requires environmental cleanup. This parcel is subject to the \$62 per square foot appraisal and will be purchased as fee title and remediated prior to acquisition.

-- EAST PARK is a roughly 8,000 square foot parcel non-contiguous to the west park. This parcel is subject to the \$62 per square foot appraisal and will be purchased as fee title and remediated prior to acquisition.

-- TRAIL CORRIDOR connects the two park parcels and will exist as an easement across developer-owned land. The main route of the Missing Link will pass through the west park, then the corridor, then the east park. The trail corridor is NOT subject to this grant request. it is being acquired under a different mechanism available to MPRB: the parkland dedication ordinance.

Does this acquisition involve eminent domain?

No

Eminent domain

If eminent domain is being used:

(1) you must upload a copy of the notice your Agency provided to the Council that the petition to the Court was filed.

(2) Include documentation of your governing body's authorization (on the Other Acquisition Attachments web page).

When was the Council notified of your intention to use eminent domain?

Date the petition was filed.   p

Settlement date   p

Public domain

Note that ENRTF funding cannot be used for acquisitions of property already in the public domain unless a minimum of 12 LCCMR commissioners approve the transaction. If this is a public domain acquisition and if you propose using ENRTF, be sure your closing schedule accommodates planning to be included on a future LCCMR agenda.

Is any portion of the property currently in the public domain?   p

No

If yes, describe/name the entity and the portion of the property it owns, as well as why this public-to-public transfer is necessary.

Closing date   p

The County does not guarantee that the approval will be completed to meet your requested closing date. This date will be considered an estimate only. However, the acquisition must be completed during the standard one-year grant term unless the approval is obtained from the County or the grant terms are amended.

Estimated closing date

Format: mmddyyyy (Do not enter any punctuation.)

Type of agreement

Purchase Agreement

i.e., purchase agreement, offer letter, etc.

Date agreement expires

Format: mmddyyyy (Do not enter any punctuation.)

**Relocation costs**

Payment of relocation costs is required by both state and federal law, unless the seller waives those rights. Please consult with Agency attorneys to determine liability for this acquisition. If the seller has waived relocation rights, you must upload an executed copy of the waiver.

Does the requested grant amount include relocation costs?  No

**Appraisal**

The appraisal must have an effective date within one year of the date the purchase agreement is signed. The appraisal **MUST** list the Metropolitan County as an intended user, and the intended use must include "negotiation and grant reimbursement."

Appraisal effective date  10/31/2023

Appraised value  \$3,720,100.00

Amount being offered the seller (net of closing and other costs)  \$3,437,404.00  92.4%

% of appraised value

Who performed the appraisal?  Julie Jeffrey Schwartz, Lake State Realty Services

Who contracted for the appraisal (i.e., was it done at arms' length)?  Minneapolis Park and Recreation Board

**Survey**

Was a survey done?  Yes

**Quality of natural resources - is the property...**

...undeveloped?

Fully

Partially

...wooded?

Fully

Partially

...shoreline?

Fully

Partially

Describe the existing natural resources it contains

No natural resources exist on the site. This is an formerly industrial urban site.

**Known opposition**

Is the Agency aware of any opposition to this acquisition?  No

If yes, explain:

**Encumbrances**

To your knowledge, are there any current or anticipated assessments or liens on property?  No

If yes, describe.

Are there easements or other encumbrances on any part of the property?  Yes

If yes, describe

There are encumbrances on the property for utilities as depicted in the attached survey. Utilities and utility connections that have a park benefit will remain in place, including electric. Prior to closing, the seller will enter into customary underground utility easement agreements with said third-party providers allowing for a 10 foot utility easement surrounding the existing lines. All other encumbrances and easements will be removed prior to closing.



Clear title

Do you know whether the current owner has cleared the property? Yes

If not, what must be done to clear the title, and when will that be completed?

Suggested funding source

For guidance, see the PAOF rules in the 2040 Regional Parks Policy Plan at <http://metro council.org/Parks/Publications-And-Resources/POLICY-PLANS/2040-Regional-Parks-Policy-Plan.aspx>; for ENRTF fee title acquisition project requirements, see [http://www.lccmr.leg.mn/pm\\_info/enrtf\\_fee-title-acquisition-project-requirements.pdf](http://www.lccmr.leg.mn/pm_info/enrtf_fee-title-acquisition-project-requirements.pdf)

The Council will review your project specifics and work with you to determine the optimal funding source(s).

Anticipated funding source PTLF Legacy / Council match, ENRTF / Council match  
Select as many as apply

Funding source comments, if desired

Requested amount exceeds the limit for each fund source, so both sources will be necessary.

Structures currently on the property

Does the property contain ANY structures? Yes

If yes, are they all habitable structures? No

Does the property contain any environmentally generating businesses? No

If yes, what is the plan for the structures(s)? Total demolition, environmental clean-up, and restoration to a "clean" site prior to closing. It is possible that portions of the existing building could be reused as part of the park design, but that has not yet been determined.

If the environmentally habitable structures, could they be relocated? If yes, how? If not, when?

If the property contains habitable structures environmentally generating businesses, describe:

For ENRTF funding only

If this will be ENRTF funding, LCCMR requires that you describe the selection process used to identify these proposed parcels.

NOTICE: ENRTF funding has specific requirements for disseminating information to the public when property is purchased through the Trust Fund. It is the agency's responsibility to meet those requirements and to provide documentation to the Council BEFORE payment will be made.

MPRB has been in negotiation with the current owner of this and adjacent sites for multiple years. Through this negotiation, it has been determined which parcels make sense to acquire through utilization of the Minneapolis parkland dedication ordinance and which parcels should be purchased outright. This property was chosen for outright purchase because it is largely unencumbered with easements, requires environmental clean-up, and cannot meet certain requirements of the park dedication ordinance's land dedication requirements.

Stewardship and minimal access

Describe the stewardship plan.

An inventory and analysis of existing land cover for the Missing Link alignment was done using the Minnesota Land Cover Classification system developed by the Minnesota Department of Natural Resources and the Metro Geographic Information System. The result of the inventory shows, for the most part, that the area is highly developed with industry, commercial, and residential uses. Open or 'green' space along the overall Missing Link route can be considered at Gross Golf Course and Sunset/Hillside Cemetery. The site in question here has no existing natural resources and will require full restoration of any natural systems (as opposed to enhancement of degraded existing systems, of which there are none). Along the Missing Link route, there are no known or identified natural, unique, or sensitive land cover types (See Figure 34 and Figure 35.) (GRML Master Plan pg. 5)

Ecological and stewardship goals for the acquisition site: as a previously industrial site, the top four feet of fill will need to be removed and replaced with clean fill and topsoil. The future park will integrate stormwater management on site and include native plantings for wildlife benefit.

How will the anticipated implementation be funded?

Specific land stewardship costs will primarily be associated with environmental clean-up (soil remediation, building demolition/preservation, site access control), which will be funded by the seller and potentially by the buyer through sources external to the PAOF grant.

Development of the park, including planned naturalized areas and stormwater management for heavily watered ways, will be funded by MPRB subsequent to site acquisition, likely through the use of Park Dedication Funds (area developer fees).

At your continuing effort to provide minimal access to the property (potential to be used for public use) it is not intended to be a public use?

If yes, how will the future be funded?

Site Description

Land Use History

Current use

Industrial

Select as many as apply

Previous use

Industrial

Select as many as apply

Adjacent use

Commercial, Industrial, Park, Residential

Select as many as apply

Inspection

Does the property contain any of the following?

Select as many as apply

Sellers and parcels

Seller name	Parcel	ID	Address (Street, Apt, Unit, etc.)	City	County	MPDSC L title	Longitude
Wall Development Company	525 Malcolm Ave S, Minneapolis, MN 55414	3002923130112	1.38	Minneapolis	Hennepin	1.38	44.973 -93.215

Local match

Source of local match

Dibble-Horns in Parkland Dedication Fund, managed by the Minneapolis Park and Recreation Board

Pending grant from the Mississippi Watershed Management Organization

Grant agreement signatories

Full name of the person who signed the agreement, including title and organization

Acquisition Costs

Cost of acquisition, including acquisition costs, acquisition costs, acquisition costs, acquisition costs, acquisition costs

<b>Purchase price</b>				
gotiated purchase price 1	3,720,000.00	,674,045.00	,60,030.00	930,025.00
<b>Assessment</b>				
Appraisal	\$ 3,875.00	6,244.00	4,02.00	\$3,469.00
Appraisal review 1	\$0.00	0.00	0.00	\$0.00
<b>Environmental assessment</b>				
Phase I environmental site assessment	\$0.00	0.00	0.00	\$0.00
Phase II environmental site assessment	\$0.00	0.00	0.00	\$0.00
Environmental contamination remediation 1	\$0.00	0.00	0.00	\$0.00
<b>Other fees</b>				
Interstate	\$0.00	0.00	0.00	\$0.00
Land stewardship	\$0.00	0.00	0.00	\$0.00
Land development 1	\$0.00	0.00	0.00	\$0.00
Pro-rata share of all property tax assessments 1	\$29,000.00	3,050.00	8,700.00	\$7,250.00
Legal services and closing costs 1	\$ 12,035.00	50,400.00	33,600.00	28,008.00
Property tax equivalent payment-473.34	0.00	0.00	0.00	\$0.00
Relocation costs to site 1	\$0.00	0.00	0.00	\$0.00
State and local tax/conservation fee 1	0.00	0.00	0.00	\$0.00
Title insurance 1	\$5,200.00	2,340.00	,560.00	\$ 1,300.00
Well disclosure statement	\$0.00	0.00	0.00	\$0.00
Other holding 1	\$0.00	0.00	0.00	\$0.00
<b>Other fees</b>				
Other expenses 1	\$0.00	0.00	0.00	\$0.00
<b>Totals 1</b>	<b>\$3,880,210.00</b>	<b>1,746,095.00</b>	<b>1,164,063.00</b>	<b>970,052.00</b>

**Total Estimated Acquisition Costs**

Totals 1	Total acquisition cost 1	Total paid with state funds 1	Total paid with retro funds 1	Total paid by agency 1	Total grant amount 1
Total Estimated Acquisition Cost (calculated after costs above are included)	\$3,880,210.00	,746,095.00	, 1,04,063.00	970,052.00	2,90,38.00

**Required Attachments -Acquisition 1**

Attachment 1	Description1	File Name 1	Type	File Size
<p><b>SECTION 1 -All of the following are required to BEGIN review unless otherwise indicated 1</b></p>				
1.0 Grant request letter (REQ'D) 1	Request letter 1	PAIOF Request_2024-1031.pdf11	pdf	144 KB
2.0 Master plan documentation1 (REQ'D) 1	Portion of Grand Rounds Missing Link Master Plan 1	GRML Master Plan Towerside.pdf11	pdf	5.2 MB
3.0 RECORDED Governing Board action authorizing 1 grant request (REQ'D)	Executed MPRB resolution 2024-197 1	2024-197.pdf11	pdf	180 KB
4.0 Signed purchase 1 agreement/instrument (REQ'D) 1	Signed purchase agreement 1	Purchase and Sale Agmt; Malcolm Yards; MPRB Signed; 2024.10.23.pdf1	pdf	3.3 MB
5.1 Appraisal report1 (REQ'D) 1	Appraisal prepared by LakeState Realty Services, establishing square foot price of \$62, which was applied to east and west parks.	Appraisal - 11Acre Malcolm Yards.pdf11	pdf	8.5 MB
5.2 Appraisal review report (NOT req'd)				
5.3 Client's instructions to appraiser 1 (REQ'D) 1	Instructions to appraiser 1	RE_1[External]Potential appraisal assignment 1-Malcolm Yards.pdf11	pdf	297 KB



# Exhibit 4: Appraisal excerpt

## Executive Summary

<b>Address/Location</b>		The West Park Parcel appraised is located at 29 <sup>th</sup> Avenue SE, north of the University of Minnesota Transitway in Minneapolis, MN. The East Park Parcel appraised is located on the western side of Malcolm Avenue SE, north of 5 <sup>th</sup> Street SE in Minneapolis, MN. It is noted, the existing parcel which the appraised parcels are a part of has a physical address of 525 Malcolm Avenue SE, Minneapolis, MN 55414.
<b>Property Type</b>		Assumed to be vacant land (dually zoned production mixed use and residence and institutional use)
<b>Owner</b>		Per Hennepin County Records, the current fee owner is Wall Development Company LLC.
<b>Interest Appraised</b>		Fee Simple Estate
<b>Appraisal Purpose/Use</b>		The purpose of the original appraisal, which this is an addendum to, is to estimate the market value of the subject property, as of the effective date of value, October 31, 2023, the date of inspection, for a possible total fee acquisition of the subject parcel by the City of Minneapolis Park and Recreation Board, for park purposes. The purpose of this appraisal addendum is to update the square footage of the West Park Parcel (now 52,014 s.f.) in the original appraisal and related value and to include the valuation of the East Park Parcel (an additional 7,897 square feet of vacant land). The original appraisal, and this appraisal addendum, is being completed for the requestor, Mr. Adam Arvidson, PLA, FASLA, Director of Strategic Planning, Minneapolis Park and Recreation Board, who intends to use this report (function) for acquisition negotiation and funding purposes related to the proposed total fee acquisition.
<b>Intended Users</b>		The original appraisal, and this appraisal addendum, are being completed for the requestor, Mr. Adam Arvidson, PLA, FASLA, Director of Strategic Planning, Minneapolis Park and Recreation Board. The Metropolitan Council is an additional intended user.
<b>Property Rights Appraised</b>		The property rights appraised are the fee simple estate, which is defined as: Absolute ownership unencumbered by any interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.
<b>Site</b>	Size	Per information provided by the client, the West Park Parcel is 52,014 s.f. in size, and the East Park Parcel is 7,987 s.f. in size.
	Shape	The West Park Parcel is irregular but conventional in shape. The East Park Parcel is generally rectangular in shape.
	Topography	The West Park Parcel has generally level topography, however, appears to slightly slope upward from the western to the eastern portion of the parcel, and there is a slightly raised area located on the northeastern portion of the parcel. The East Park Parcel has generally level topography.
	Soils	Buildable.
<b>Improvements</b>		For the purpose of this appraisal, the subject is assumed to be comprised of vacant land.
<b>Zoning</b>		The West Park Parcel is dually zoned with the eastern portion zoned PR1, Production Mixed-Use, and is located within the BFT15, Built Form Transit 15 Overlay District; and the western portion is zoned RM3, Residence and Institutional, and is located within the BFT30, Built Form Transit 30 Overlay District. The East Park Parcel is zoned PR1, Production Mixed-Use, and is located within the BFT15, Built Form Transit 15 Overlay District. The entire property is subject to the UA, University Area Overlay. All as governed by the City of Minneapolis.
<b>Guided Land Use</b>		The West Park Parcel is dually guided with the eastern portion guided for Production Mixed Use, and is located within the BFT15, Built Form Transit 15 District; and the western portion is guided Public, Office, and Institutional, and is located within the BFT30, Built Form Transit 30 District. The East Park Parcel is guided Production Mixed Use, and is located within the BFT15, Built Form Transit 15 District. All as guided by the City of Minneapolis.
<b>Ten Year Sales History</b>		There have been no sales of the subject in the past ten years.
<b>Highest and Best Use</b>	As Vacant	Low density multi-family residential use at a density allowed by the underlying zoning
	As Improved	N/A, as the subject is essentially vacant land
<b>Property I.D. Number</b>		None. It is noted however, the subject (both the West Park Parcel and East Park Parcel) are comprised of a portion of an existing parcel with a PID# of 30-029-23-13-0112.
<b>2022 Assessed Values, Taxes Payable 2023</b>		N/A, as the West Park Parcel and East Park Parcels appraised do not currently exist as a legal parcels of record, however, the larger 6.2 acre parcel with PID # 30-029-23-13-0112, which the parcels appraised are part of, has the following assessed values: Land: \$1,732,900; Building: \$2,000; Total: \$1,734,900.
<b>Estimated Market Value:</b>		<b>\$3,720,100*</b>
<b>Date of Valuation</b>		October 31, 2023
<b>Appraiser(s)</b>		Julie Jeffrey Schwartz, Certified General Appraiser, MN 4002423

\*Based on:

East Park Parcel at \$62.00 (estimated value per s.f.) X 7,987 s.f. (East Park Parcel size) = \$495,194, rounded to \$495,200; and,  
West Park Parcel at \$62.00 (estimated value per s.f.) X 52,014 s.f. (West Park Parcel size) = \$3,224,868, rounded to \$3,224,900)



## Exhibit 5: Board authorization

### MINNEAPOLIS PARK AND RECREATION BOARD

#### AN ACTION, RESOLUTION OR ORDINANCE

In accordance with Article VI, Section 6.2(j), of the City Charter, there is herewith submitted to you, the Mayor of the City of Minneapolis, an action, resolution or ordinance adopted by the Minneapolis Park and Recreation Board which you may approve by affixing your signature herein below or if you disapprove of same to return to the Board, with your objection thereto, by depositing the same with the Secretary of the Board to be presented to the Board at their next meeting where the question of its passage will be put again before the Board.

IX.B.2

Resolution 2024-197

RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT WITH WALL DEVELOPMENT COMPANY, LLC FOR THE ACQUISITION OF PARKLAND LOCATED WITHIN THE GRAND ROUNDS MISSING LINK REGIONAL TRAIL, FOR \$3,437,404 AND OTHER CONSIDERATIONS

PASSED October 23, 2024

☒ APPROVED

☐ VETOED

  
Secretary of the Board

  
Mayor

Offered by: *Brecha Thompson*  
Seconded by: *Carly Abene*

**Resolution 2024-197**

**RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT WITH WALL DEVELOPMENT COMPANY, LLC FOR THE ACQUISITION OF PARKLAND LOCATED WITHIN THE GRAND ROUNDS MISSING LINK REGIONAL TRAIL, FOR \$3,437,404 AND OTHER CONSIDERATIONS**

Whereas, The Minneapolis Park and Recreation Board (MPRB) was created by the Minnesota Legislature in April 1883 and has the authority to acquire parkland with six votes of the Board of Commissioners;

Whereas, The Board of Commissioners adopted the Grand Rounds Missing Link Regional Trail Plan and the East of the River Park Master Plan in 2019 which includes guidance to create new parkland in a park gap identified along the proposed route throughout northeast and southeast Minneapolis;

Whereas, The Board of Commissioners approved a Memorandum of Understanding (MOU) between Wall Development Companies, LLC (Wall) and MPRB with the Mississippi Watershed Management Organization (MWMO) in 2019 to guide collaboration for developing parkland in the Towerside District;

Whereas, Wall is the owner and willing seller of Property anticipated in the Grand Rounds Missing Link Regional Trail Master Plan to be developed as flexible greenspace with spaces for play, ecological enhancements, and trailside amenities;

Whereas, MPRB staff have been working to develop a purchase agreement and an easement and parkland dedication agreement for several years;

Whereas, MPRB engaged a qualified professional to conduct an appraisal of the Property in support of a possible MPRB acquisition;

Whereas, The Owners have indicated a sale price of \$3,437,404, which corresponds to the appraisal conducted by the MPRB;

Whereas, MPRB staff will soon initiate a process to access the Metropolitan Council's Park Acquisition Opportunity Fund (PAOF), which can be applied to the acquisition at 75 percent of up to 110 percent of the appraised value and 75 percent of eligible site clean-up costs;

Whereas, MPRB staff have identified funds that can be used toward the acquisition of the Property, including Dibble-Hornstein Parkland Dedication Funds and Mississippi Watershed Management Organization grant funds;



Whereas, MPRB has outlined terms related to its acquisition of the Property that include a purchase price and contingencies related to success in the granting of PAOF funds from the Metropolitan Council to support the acquisition of the Property, and other terms proposed by the Owner and Buyer;

Whereas, The site needs to be clean of environmental contamination to satisfy Metropolitan Council requirements before MPRB closes on the property, and Wall is responsible for the clean-up of the site;

Whereas, This resolution is supported by Parks for All, the MPRB Comprehensive Plan 2021-2036, under Goal 3: "Provide core services with care;" and Goal 9: "Operate a financially stable enterprise;"

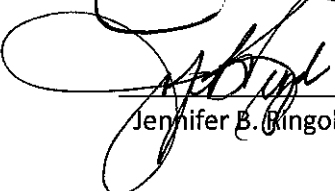
RESOLVED, That the Board of Commissioners authorizes the execution of a purchase agreement with Wall Development Company, LLC for the acquisition of parkland located within the Grand Rounds Missing Link Regional Trail, for \$3,437,404 and other considerations; and

RESOLVED, That the President of the Board and Secretary to the Board are authorized to take all necessary administrative actions to implement this resolution.

Adopted by the Minneapolis Park and Recreation Board  
In formal meeting assembled on October 23, 2024

Commissioner	Aye	Nay	Abstain	Absent
Forney	✓			
Abene	✓			
Alper	✓			
Menz	✓			
Musich				✓
Olsen	✓			
Rucker	✓			
Shaffer	✓			
Thompson	✓			

  
Margaret Forney, President

  
Jennifer B. Ringold, Secretary

Mayor Action:

☒ APPROVED

☐ VETOED

  
Jacob Frey, Mayor

OCT 30 2024

Date

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2024 (the "**Effective Date**"), by and between WALL DEVELOPMENT COMPANY, LLC, a Minnesota limited liability company (the "**Seller**"), and CITY OF MINNEAPOLIS, a Minnesota municipal corporation, acting by and through its Park and Recreation Board, a public body politic and corporate under the laws of Minnesota (the "**Buyer**").

### RECITALS

A. **Lot 3.** Seller is the owner of Lot 3, Block 1, Malcolm Yards, according to the recorded plat thereof, Hennepin County, Minnesota ("**Lot 3**").

B. **Land; West Park and East Park.** Seller intends to sell, and Buyer intends to purchase, two parcels located in portions of Lot 3 (collectively, the "**Land**"), which are depicted on the attached **Exhibit A**, containing, respectively, approximately 52,014 square feet ("**West Park**") and 7,987 square feet ("**East Park**").

C. **Plat.** A legal description for the Land will not be completed until after it is subdivided pursuant to a plat that has been approved by Buyer and filed with Hennepin County Registrar of Titles (the "**Plat**"); a draft of the proposed Plat is attached hereto as **Exhibit B**.

D. **Seller Work.** Prior to Closing, Seller shall make, at Seller's expense, subject to the right to collect certain of the Grant proceeds as further provided herein, the alterations and improvements on the Land and the "Easement Areas" (defined below) described on the attached **Exhibit C** (the "**Work**").

E. **Grant.** Buyer intends to apply for a grant from the Metropolitan Council pursuant to its Park Acquisition Opportunity Fund Program (the "**Grant**") to finance a portion of the Land purchase price, certain environmental remediation costs and the cost of removal of the building (the "**Building**"), retaining wall, curb cuts, removal of asbestos and any other improvements and contaminants. Both parties shall cooperate, at their own expense, in making application for and obtaining the Grant.

F. **Parkland Development and Easement Agreement.** Simultaneously with the execution and delivery of all closing documents, pursuant to Section 4 hereof, Seller and Buyer shall execute, deliver and record a Parkland Development and Easement Agreement (the "**Parkland Easement Agreement**") substantially in the form of the attached **Exhibit D**, which provides Buyer with certain easements over portions of Lot 3 (the "**Easement Areas**") legally described in the Parkland Easement Agreement.

G. **Driveway Easement.** At the Closing, Seller shall execute a Driveway Easement Agreement ("**Driveway Easement Agreement**") in favor of Buyer for the purpose of allowing Buyer and its agents and invitees pedestrian and vehicular access across that portion of Lot 3 ("**Driveway Easement Area**") depicted on the drawing attached hereto as

**Exhibit E** and which may be moved in Seller's sole discretion at any time (provided continuous access is not interrupted except in the event of necessary closures due to repairs, replacements and improvements), allowing access from the West Park to 30<sup>th</sup> Avenue North. The Driveway Easement Agreement shall (i) require the fee owner of the Driveway Easement Area to maintain the driveway, at the expense of the owner, (ii) provide for completion, post-Closing, of the driveway by Seller which may be a gravel driveway, and (iii) provide that so long as the parking improvements depicted on Exhibit F are operated as a parking lot, the general public subject to availability and the contractual obligations of Seller to third-parties, shall be able to use the parking lot, subject to payment of hourly fees, and (iv) provide at a location selected in Seller's sole discretion, and which may be moved at any time to any location selected in Seller's sole discretion, provided such locations are adjacent to the West Park, one paved parking space for Park Board service vehicles (signed to indicate reserved use 24 hours a day) and three paved handicapped parking spaces that satisfy pertinent government requirements, such as ADA.

H. **Crane Encroachment.** At the Closing, Seller and Buyer shall i) execute a Temporary Crane Encroachment Agreement ("**Crane Encroachment Agreement**") in form and substance as provided in **Exhibit F** whereby Seller and its assignees are granted a license for a term of no more than twenty-four (24) months, which may be triggered anytime within a period of sixty (60) months following closing, to place and operate an overhead crane on a portion of the West Park, which will swing over a significant portion of the West Park, as depicted on the Crane Encroachment Agreement; or ii) Seller shall assign and Buyer shall assume the terms and conditions of a crane license agreement in the form and substance as agreed to in the Crane Encroachment Agreement should Seller have entered into such agreement with a buyer of the land that benefits pursuant to the Crane Encroachment Agreement prior to the date of Closing.

I. **Declaration of Access and Utility Easement.** The Parties hereto agree that on or before Closing, Seller will execute and record a Declaration of Access and Utility Easement containing terms and conditions more fully provided in Paragraph 20 herein and, in the approximate locations and dimensions and which is contained within in the Easement Areas depicted on **Exhibit G** (the "**Declaration of Easements**"), according to such terms as are approved by Buyer in writing and Buyer will take the Easement Areas and Parkland Easement Agreement subject to the same. The Declaration shall provide that any disturbance of the surface area by the easement holder shall be limited in duration to minimize interference with Buyer's use thereof and the easement holder shall restore all improvements damaged or destroyed by easement holder.

J. **REOA Amendment.** The West Park, East Park and Easement Areas are currently subject to that certain Reciprocal Easement Agreement with Covenants, Conditions and Restrictions dated September 26, 2019, recorded with the Hennepin County Registrar of Titles on September 30, 2019 as Doc. No. T5648324 ("**REOA**"). The Parties agree the REOA shall be amended on or before the Closing to release the Easement Areas, West Park and East Park from the REOA entirely, provided that utility easements provided therein related to the Easement Areas for utility lines currently installed below ground

depicted on Exhibit G shall be integrated into the Declaration of Easements ("**REOA Amendment**").

K. **Utility Easements.** The parties hereto understand and agree that there are currently private and third-party utility provider electric, data, storm sewer, and gas lines installed below the surface within the Easement Areas lying East and West of 30<sup>th</sup> Avenue in the locations depicted on the attached **Exhibit H** and that on or prior to closing Seller will enter into customary underground utility easement agreements with said third-party providers allowing for a 10 foot utility easement surrounding the existing lines, Seller will enter into a customary easement reservation for the existing private underground storm sewer allowing for a 5 foot utility easement on the north side of the line in the location depicted in **Exhibit H**. and further in all such agreements allowing for customary repair, replacement and maintenance of the same with such language to be reasonably approved by Buyer during the Due Diligence Period (collectively the "**Existing Utility Easement Agreements**") and the Buyer shall take the Easement Areas and Parkland Easement Agreement subject to the same. Additionally, Seller shall have the right to record a document prior to the Closing Date reserving an area for new underground water, gas, electric, storm and sanitary lines, within the Easement Area lying East of 30<sup>th</sup> Avenue, running north and south, connecting to existing utility lines, in locations depicted on the attached **Exhibit H** ("**Future Utility Easement Area**") and further allowing for the customary right to construct the new lines and repair, replace and maintain of the same with such language (inclusive of the right to move the same as provided as follows) to be reasonably approved by Buyer during the Due Diligence Period ("**Future Utility Easement Reservation**"). The Parties hereto further agree Seller shall have the right to move the Future Utility Easement Area within those areas depicted on Exhibit H in Seller's discretion and upon written notice to Buyer. In the event the Future Utility Easement Area is moved the Parties hereto agree to amend the Future Utility Easement Reservation to provide for the same. The Existing Utility Easement Agreement and Future Utility Easement Reservation shall provide that any disturbance of the surface area by the easement holder shall be limited in duration to minimize Buyer's use thereof, and the easement holder shall restore all improvements damaged or destroyed by easement holder.

L. **Records.** Buyer desires to purchase (i) the Land, and (ii) all records of Seller regarding the Land, including all environmental reports, soil tests, surveys (hereinafter all such records shall be referred to collectively as the "**Records**", and hereinafter, the Land and Records are sometimes referred to collectively as the "**Property**") in accordance with the terms and conditions hereinafter set forth.

**NOW, THEREFORE,** in consideration of the foregoing premises, the agreements hereinafter provided and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby agrees to sell to Buyer and Buyer agrees to purchase from Seller the Property, together with and including all hereditaments, appurtenances, easements and rights-of-way thereunto belonging or in any way appertaining to the Land and also the right, title and interest (if any) of Seller in and to the bounding and abutting streets, alleys and highways, subject to and upon the following terms and conditions:

1. **PURCHASE PRICE AND PAYMENT.** The purchase price for the Property (the "**Purchase Price**") is Three Million Four Hundred Thirty-Seven Thousand Four Hundred Four and NO/100 Dollars (\$3,437,404.00), less any credits properly allocable to Buyer applicable to the Purchase Price, shall be paid by Buyer to Seller in certified funds or by wire transfer of immediately available funds on the Closing Date (as hereinafter defined).
2. **CONTINGENCIES.** The obligations of Buyer contained in this Agreement are contingent upon each of the following:
  - (a) The representations and warranties of Seller contained in this Agreement must be true and correct in all material respects on the date of Closing as if made on and as of the date of Closing and Seller shall have delivered to Buyer at closing a certificate dated as of the Closing Date certifying that such representations and warranties are true and correct in all material respects as of the Closing Date (the "**Bring-Down Certificate**").
  - (b) Title to the Land and Easement Areas shall have been found to be marketable, in accordance with the terms and conditions of Section 3 hereof.
  - (c) Seller shall have performed in all material respects all of the obligations required to be performed by Seller under this Agreement, as and when required to be performed by Seller hereunder, including, but not limited to, the following:
    - (i) Within five (5) days after the Effective Date, Seller shall deliver to Buyer copies of the Records;
    - (ii) Within fourteen (14) days after the Effective Date, Seller shall, at its expense, deliver to Buyer a current ALTA/NSPS Survey for the Land and Easement Areas certified to Buyer and the Title Company containing the level of detail provided for in Table A items 1, 2, 3, 4, 6, 7(a)-(c), 8, 9, 10, 11, 13, 14, 16 and 17 (the "**Survey**").
    - (iii) Within fourteen (14) days after the Effective Date, Seller shall, at its expense, deliver to Buyer a commitment issued by Guaranty Commercial Title, Inc. (the "**Title Company**") for an owner's title insurance policy for the Land (fee title) and Easement Areas (easement), certified to date to include property searches covering bankruptcies, state and federal judgments and liens, and levied and pending special assessments (the "**Title Commitment**"), together with copies of all documents referred to in the Title Commitment as creating exceptions to title. The Title Commitment will commit the Title Company to insure fee title to the Land and affirmatively insure the easement rights in the Easement Areas provided for in the Parkland Easement Agreement, subject only to the Permitted Encumbrances (as hereinafter defined).



- (iv) From and after the Effective Date through the Due Diligence Period, Seller shall allow Buyer, and Buyer's engineers, environmental consultants and other agents, full and free access to the Land at all reasonable times for the purpose of performing any and all appraisals, audits, assessments, testing, surveys, inspections and investigations of the physical and regulatory status and condition of the Land as Buyer in its sole discretion may deem necessary or advisable (collectively, the "**Due Diligence Review**"). Buyer shall pay all costs and expenses incurred by Buyer for all charges owed to third parties with whom Buyer has contracted for any and all Due Diligence Review, and shall indemnify (subject only to those limitations provided in Minnesota Statutes Section 466), defend and hold Seller and the Land harmless from and against any and all claims by any third parties for damages, personal injuries, property damage or other losses caused by such Due Diligence Review performed on or about the Land by Buyer or by any other person or entity at Buyer's request, and shall within twenty (20) days after Buyer receives notice of the filing thereof, remove any mechanic's liens filed against the Land resulting from Buyer's activities on the Property. In connection with its Due Diligence Review, Buyer will use commercially reasonable efforts to avoid unreasonable interference with Seller and Seller's tenants and licensees in connection with their use and occupancy of the Land. Buyer shall return the Land to its prior condition after any and all reviews or testing.
- (v) Within fourteen (14) days after the Effective Date, Seller shall contract with Stantec or approved alternate ("**Environmental Engineer**") to provide a Phase I Environmental Site Assessment report in accordance with ASTM E1527-21, addressed to Seller, Buyer and the Metropolitan Council, for the Land and Easement Areas ("**Phase I**"). Within fourteen (14) days after the Effective Date, the parties shall endeavor to agree on the scope of a Phase II investigation ("**Phase II**") which will, at a minimum (i) investigate the extent of any contamination in soil, soil gas and groundwater on the Land or Easement Areas identified as a "recognized environmental condition," (ii) investigate the presence of any soil contamination on the Land and Easement Areas, in the Minnesota Pollution Control Agency's ("**MPCA**") potentially accessible zone, at a depth of between 4 feet and 12 feet ("**4 Feet and Over Depth**") ("potentially accessible zone"), which would be required to be remediated to satisfy the MPCA Recreational/Residential Soil Reference Values ("**Residential Standards**"), (iii) investigate the presence of any soil contamination on the Land and the Easement Areas in the "potentially accessible zones" established by the Minnesota Pollution Control Agency, at a depth of up to 4 feet ("**Up to 4 Feet Depth**"), which would be required to be remediated to

satisfy the Residential Standards, and (iv) investigate any other facts or circumstances recommended by the Environmental Engineer and Buyer's environmental consultant (collectively, the "**Adverse Environmental Conditions**"). Within fourteen (14) days of the delivery of the Phase II to Buyer and Seller, the Environmental Engineer shall determine the work, cost and timing to remediate the Adverse Environmental Conditions. If the cost of such remediation, including any legal clearances or approvals from appropriate government agencies that address the continued presence of an Adverse Environmental Condition, which is not otherwise reimbursed by the Grant is estimated to exceed the sum of 25% of such remediation cost plus \$300,000.00 (the "**Maximum Remediation Cost**"), then the parties shall cooperate in good faith for a period of one year after the Maximum Remediation Cost is determined to attempt to reduce the remediation costs and/or find other funding sources for such costs (and the Extended Due Diligence Period shall be extended, if necessary, to accommodate such one year period). But if such cooperation fails to reduce Seller's remediation costs to the Maximum Remediation Cost, then Seller shall have the right to terminate this Purchase Agreement in its sole discretion. Seller shall pay for the cost of the Phase I and Phase II, and perform and pay for the work required to remediate the Adverse Environmental Conditions (in the event this Purchase Agreement is not terminated) subject to potential reimbursement from the proceeds of the Grant.

- (d) Buyer shall have determined, on or before November 30, 2024 (the "**Due Diligence Period**"), that it is satisfied in its sole and absolute judgment with the results of and matters disclosed by the Due Diligence Review. Notwithstanding the prior sentence, the expiration of the Due Diligence Period shall be extended, if necessary, to a date which is fourteen (14) days after the later to occur of (i) Metropolitan Council approval of the Grant, (ii) determination by Buyer that it has sufficient funds to purchase the Land, (iii) completion of the Work by Seller, and (iv) delivery of the Approved Plat; provided such extension shall not extend beyond November 30, 2025 ("Extended Due Diligence Period"). Notwithstanding the foregoing, the only contingencies so extended beyond December 31, 2024 pursuant to the Extended Due Diligence Period shall be those stated in Paragraph 2(a), (f), (g), (h), (i) and (j) and all other contingencies contained herein shall be deemed waived as of the expiration of the Due Diligence Period.
- (e) Buyer shall have determined on or before the expiration of the Due Diligence Period that it is satisfied in its sole and absolute judgment with its review and analysis of the Records.
- (f) On or before the expiration of the Due Diligence Period, Buyer shall have determined in its sole and absolute judgment that it has all funds necessary

and sufficient to purchase the Land and satisfy its obligations hereunder. In connection with such funding, once the Phase II is completed and the costs of remediating the Adverse Environmental Conditions have been identified and agreed upon by the parties, within a reasonable time thereafter Buyer shall prepare and submit the application for the Grant which incorporates those costs. Buyer's obligation to close is subject, with respect to the Grant, to an award by Metropolitan Council of an amount equal to no less than the sum of (i) seventy-five percent (75%) of the Purchase Price less the Seller Donation, and (ii) seventy-five percent (75%) of all costs of environmental investigations and remediation of Adverse Environmental Conditions (inclusive the demolition of the Building, retaining wall, curb cuts, removal of asbestos and any other improvements and contaminants) which must be determined on or before the expiration of the Due Diligence Period.

- (g) Prior to expiration of the Due Diligence Period, Seller and Buyer shall have approved the form of the proposed Plat, and prior to Closing, the form of the Plat approved by Seller and Buyer shall have been approved by the City of Minneapolis and Hennepin County, and signed by all necessary parties and recorded on the Closing Date (the "**Approved Plat**").
- (h) On the Closing Date, the Land shall in all material respects be in the same condition as it was in as of the date of this Agreement, subject to the Work to be performed by Seller pursuant to this Agreement. Buyer shall be entitled to a final walk through inspection of the Land prior to the Closing to confirm the satisfaction of this condition.
- (i) On or before the Closing Date, Seller shall cancel or terminate all existing licenses, easements, leases and occupancy agreements affecting the Land (other than those not objected to by Buyer pursuant to Paragraph 3 hereof and those easements provided and referenced in the Recitals which are incorporated herein), effective as of the Closing Date, and provide evidence of such cancellation or termination, except to the extent such agreements have been approved by Buyer in writing.
- (j) On or before the Closing Date, Seller shall have completed and paid for the Work, and assign to Buyer any warranty it has received from its contractor as to turf establishment to be completed post-Closing, on terms reasonably satisfactory to Buyer. Notwithstanding the foregoing, the Parties hereto agree that the Grant application shall include an amount equal to 75% of the cost of the removal of the Building, retaining wall, curb cuts, asbestos and any other improvements and contaminants which are included in the Work.
- (k) Buyer shall confirm the availability of (i) electricity, storm sewer, and water utilities to the East Park and Easement Areas, and (ii) electricity, sanitary sewer, gas, storm sewer and water utilities to the West Park. To the extent there is no availability to utilities Seller shall grant easements over land owned by Seller no wider than ten (10) feet over parcels adjoining the

Easement Areas inclusive of granting utility easements within the Easement Areas in areas determined in the sole discretion of Seller, such easements shall be located and evidenced by utility easement agreements reasonably acceptable to Buyer and Seller prior to the expiration of the Due Diligence Period and executed and delivered by Seller at Closing (the "Utility Easements").

To the extent any of the foregoing contingencies describe actions or other obligations of the parties, such provisions shall constitute contractual obligations of such parties and not merely contingencies. If any of the foregoing contingencies have not been satisfied on or before the date indicated, then Buyer may, at its option, cancel this Agreement by giving written notice of cancellation to Seller not later than the date indicated, and in such event this Agreement shall be null and void and neither party will have any further rights and/or obligations under this Agreement other than those which expressly survive cancellation or termination. All of the contingencies set forth in this Agreement are specifically stated and are for the sole and exclusive benefit of Buyer and Buyer shall have the unilateral right to waive any contingencies by giving written notice to Seller.

3. **TITLE MATTERS.** Seller shall timely provide the documentation described, and at the times indicated, in Section 2(c)(ii) and (iii). Buyer shall have twenty (20) days after receipt of the Survey, proposed Plat, the Title Commitment and copies of all documents referenced in the Title Commitment and/or Survey to render written objections to Seller regarding the status of title. Notwithstanding the foregoing, Buyer agrees it will not object to the existing underground electric and irrigation located in the Easement Area or storm sewer line or watermain located on the West Park as Buyer agrees to take the West Park and Easement Areas pursuant to the Parkland Easement Agreement subject to the same, provided that, on or prior to the expiration of the Due Diligence Period, Buyer can negotiate utility easements for the storm sewer line and watermain acceptable to Buyer and obtain the right to access such watermain and storm sewer for its use. If such rights cannot be negotiated Seller agrees to remove the storm sewer line but shall have the right to decline to take any action with the watermain as further provided herein related to the response to any written objection from Buyer. Within ten (10) days of its receipt of such written objections, Seller shall notify Buyer in writing whether it intends to cure all of such title objections at its expense; provided, however, that notwithstanding the foregoing, Seller shall be required to pay and discharge at or before the Closing all mortgages, mechanics' liens, and judgment liens. If Seller elects to cure such objections, Seller shall be allowed sixty (60) days from the date of Buyer's written objections to cure such objections. Pending correction of title objections, the Closing shall be postponed.

If Buyer's title objections are not cured by Seller within sixty (60) days from the date of written objections by Buyer as above provided, or if Seller notifies Buyer that it has elected not to cure one or more of Buyer's title objections, then Buyer may, at its option, either (i) cancel this Agreement by giving written notice of cancellation to Seller within ten (10) days of receiving Seller's notice, or (ii) waive

any defects to the title and proceed to Closing. If this Agreement is cancelled, neither party shall be liable for damages hereunder to the other party. If title to the Land is found marketable or is so made within said time, or if Buyer does not object to title in writing within twenty (20) days as described above, then Buyer will be deemed to have accepted title as satisfactory.

At Closing, Buyer shall receive from the Title Company a marked-up title commitment or proforma owner's policy in accordance with the Commitment negotiated by Buyer pursuant to this Section 3 (the "**Title Insurance Policy**"). If the Title Insurance Policy which the Title Company is prepared to issue shows any exceptions or encumbrances other than Permitted Encumbrances or any new title exceptions not shown on the Commitment or Survey that are unacceptable to Buyer ("**Unpermitted Encumbrances**"), Buyer shall provide notice of the same to Seller within five (5) business days of learning the same and Seller covenants and agrees, within ten (10) days after the later of said notice from Buyer or the scheduled Closing Date (such 10-day period being sometimes hereinafter referred to as the "**Cure Period**"), to use its best efforts to remove such Unpermitted Encumbrances or to cause the Title Company to issue its endorsement over any such Unpermitted Encumbrances, which endorsement shall be in form and substance reasonably acceptable to Buyer and the Closing shall be delayed while Seller undertakes such efforts. If, after using its best efforts, as aforesaid, Seller cannot cause such Unpermitted Encumbrances to be removed or if Seller cannot cause the Title Company to issue its endorsement over any such Unpermitted Encumbrances on or before the expiration of the Cure Period, Buyer shall, within five (5) business days following expiration of the Cure Period, elect to either (i) terminate this Agreement (other than obligations which, according to this Agreement, survive such termination), and neither party will have any further obligations (other than obligations which survive any such termination), or (ii) take title to the Property subject to the Unpermitted Encumbrances as it then is (without any reduction in the Purchase Price), provided that Seller shall remove any mortgage or similar financing lien created by or through Seller. Failure of Buyer to notify Seller within the time limits prescribed herein shall constitute an election under clause (ii) above.

Notwithstanding anything to the contrary in this Paragraph 3, Seller shall cause the Easement Areas to be released from the Reciprocal Agreement Regarding Easements, Restriction and Covenants dated January 19, 2022, recorded with the Hennepin County Registrar of Titles on January 19, 2022 as Doc. No. T5913948. Buyer and Seller agree to the recording of the REOA Amendment, Declaration of Easements and Existing Utility Easement Agreements.

4. **CLOSING.** Subject to the fulfillment or waiver of the contingencies in this Agreement, the closing of the transactions contemplated hereby ("**Closing**") shall be held at the office of the Title Company (or such other location as Buyer and Seller may mutually agree) thirty (30) days after expiration of the Due Diligence Period ("**Closing Date**"). The effective time of the Closing shall be deemed to be 12:01 a.m. on the day on which the Closing actually occurs. Seller shall deliver or



cause to be delivered, executed and notarized as appropriate, the following at Closing:

- (a) A limited warranty deed for the Land in recordable form, conveying the Land subject only to the Parkland Easement Agreement and matters set forth in the Survey and the Title Commitment that are not objected to by Buyer as provided for herein or which are waived by Buyer (collectively, the "**Permitted Encumbrances**").
- (b) Possession of the Property, free of any leases, licenses or occupancy agreements, and copies of the documentation provided for by Section 2.i. hereof.
- (c) A duly executed FIRPTA affidavit pursuant to Code Section 1445.
- (d) Copies of all Records, and the Phase I and the Phase II reports, and all correspondence and reports concerning remediation of the Adverse Environmental Conditions, including any clearance letters from the MPCA.
- (e) A customary Seller's Affidavit indicating that on the date of Closing there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Land; that there has been no skill, labor or material furnished to the Property at the request of Seller for which payment has not been made or for which mechanics' liens could be filed; and that there are no other unrecorded interests in the Land that have not been canceled or terminated as provided in Section 2(i) that may be required by the Title Company to issue an owner's policy of title insurance to Buyer insuring Buyer's interest as fee owner of the Land for the full Purchase Price.
- (f) The Bring-Down Certificate.
- (g) A certificate signed by Seller warranting that there are no "wells" on the Land within the meaning of Minn. Stat. Section 103I or if there are any "wells", a well certificate in the form required by Applicable Laws, or, if wells exist as of the date of this Agreement but are abandoned as part of the Work, then documentation to establish that such abandonment was accomplished pursuant to Applicable Laws.
- (h) If the Land contains or contained a storage tank, an affidavit with respect thereto, if required by Minn. Stat. Section 116.48, and documentation from the MPCA confirming closed status of any previously removed tank.
- (i) The original Approved Plat, executed by all necessary parties, in recordable form.
- (j) All warranties for the Work, if any, and paid receipts and lien waivers for all contractors supplying labor or materials for the Work.

- (k) Such other documents, certifications or other information that may reasonably be required by the Title Company or which may be customary under local law in order to close the transactions as contemplated by this Agreement.
- (l) The Driveway Easement Agreement, in form satisfactory to Buyer and Seller.
- (m) The Crane Encroachment Agreement.
- (n) Utility Easements, if any.
- (o) Declaration of Access and Utilities Easement (unless already recorded).
- (p) Existing Utility Easement Agreements (unless already recorded).
- (q) Future Utility Easement Reservation (unless already recorded).
- (r) REOA Amendment (unless already recorded).
- (s) Seller Authority Documents.
- (t) Any documentation required to be supplied by Seller as a condition of funding the Grant.
- (u) Parkland Easement Agreement, executed by Seller, related parties and mortgagees.
- (v) Any documentation reasonably required to be supplied by Seller as a condition of funding the Grant.

Buyer shall deliver or cause to be delivered, executed and notarized as appropriate, the following at Closing:

- (a) The balance of the Purchase Price owing pursuant to this Agreement.
- (b) Such affidavits of purchaser, certificates of real estate value and other documents as may be reasonably required by the Title Company or which may be customary under local law in order to close the transactions contemplated by this Agreement.
- (c) The Driveway Easement Agreement, in form satisfactory to Buyer and Seller.
- (d) The Crane Encroachment Agreement, in form satisfactory to Buyer and Seller.

- (e) Parkland Easement Agreement, executed by Buyer and the City of Minneapolis.
- (f) Any documentation reasonably required to be supplied by Buyer as a condition of funding the Grant.

**5. REAL ESTATE TAXES, SPECIAL ASSESSMENTS, AND PRORATIONS.**

Seller warrants that all real estate taxes and installments of special assessments with respect to the Land due and payable in the years prior to the year of Closing have been paid in full. Buyer shall pay all real estate taxes due and payable with respect to the Land in the years following the year of Closing. Real estate taxes on the Land that are due and payable in the year of Closing shall be prorated as of the date of Closing on a per diem basis. If real estate taxes for the Land have not been assessed separately by Hennepin County, the real estate taxes payable in the year of Closing shall equal a pro rata portion of the taxes payable for Lot 3, such proration to be based on the area of the Land, divided by the area of Lot 3. All levied and pending special assessments (general or special) for Lot 3 as of the Closing Date shall be paid in full by Seller at Closing.

**6. REPRESENTATIONS AND WARRANTIES OF SELLER AND BUYER.** As an inducement for Buyer and Seller to enter into this Agreement and consummate the transaction contemplated hereby, Seller hereby represents and warrants to Buyer to its actual knowledge that each and all of the following are true and correct as of the date of this Agreement and will be true and correct as of the Closing Date:

- (a) The execution, delivery and performance of this Agreement, including the documents, instruments and agreements to be executed and/or delivered by Seller pursuant to this Agreement, and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary action on the part of Seller. This Agreement and the documents, instruments and agreements to be executed and/or delivered by Seller pursuant to this Agreement have been or will be on or before the date of Closing duly and validly authorized, executed and delivered by Seller and the obligations of Seller hereunder and thereunder are or will be upon such execution or delivery valid, legally binding, and enforceable against Seller in accordance with their respective terms, as evidenced by such limited liability company documents of Seller as Title Company or Buyer may reasonably require ("**Seller Authority Documents**").
- (b) Seller has full power and authority to sell, assign, transfer, convey and deliver to Buyer the Property to be sold hereunder and to otherwise perform its obligations under this Agreement and the documents, instruments and agreements to be executed and/or delivered by Seller pursuant hereto. The execution and delivery of this Agreement, including the documents, instruments and agreements to be executed and/or delivered by Seller pursuant to this Agreement, and the consummation of the transactions contemplated hereby and thereby will not: (i) violate any provision of the

governing documents or instruments of Seller; (ii) violate any Applicable Laws or Injunction (as hereinafter defined); (iii) require any filing with, permit from, authorization, consent or approval of, or the giving of any notice to, any Person (as hereinafter defined); (iv) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default (or give another party any rights of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, franchise, permit, lease or other contract to which Seller is a party, or by which it or any portion of the Land may be bound; or (v) result in the creation or imposition of any Encumbrance on all of any part of the Land.

- (c) There are no condemnation proceedings pending or threatened with respect to all or any part of the Land.
- (d) With the except of those documents that are a matter of record, there are no contracts, agreements or obligations entered into by Seller relating to the Land that will extend beyond the Closing Date, except any agreements contemplated or required pursuant to this Agreement.
- (e) Seller is not a "foreign person" for purposes of Section 1445 of the Code.
- (f) Seller certifies and warrants that Seller is not aware of the existence of any "wells" on the Land within the meaning of Applicable Law, other than two monitoring wells which are to be abandoned by Seller in accordance with applicable government requirements as part of the Work.
- (g) There is no litigation at law or in equity, and no proceedings of any administrative or regulatory authority pending or threatened affecting the Land or the ability of Seller to consummate the transactions contemplated hereby.
- (h) Seller has not received any notice that the Land is in violation of any Applicable Laws, and Seller is not aware of any such violation.
- (i) Seller is not aware of any inaccuracies or omissions of material information in any of the Records.
- (j) Other than disclosed in the Phase I Environmental Site Assessment prepared by Wenck Associates, Inc., dated April 2018 and the Phase II Environmental Site Assessment prepared by Wenck Associates, Inc., dated October 2018:
  - (1) No toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive

Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9601-9657, as amended) have been generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Land nor has any activity been undertaken on the Land that would cause or contribute to (a) the Land becoming a treatment, storage or disposal facility within the meaning of, or otherwise bring the Land within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., or any similar state law or local ordinance, (b) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Land within the meaning of, or otherwise bring the Land within the ambit of, CERCLA, or any similar state law or local ordinance, or (c) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., or the Clean Air Act, 42 U.S.C. § 7401 et seq., or any similar state law or local ordinance.

- (2) There are no substances or conditions in or on the Land that may support a claim or cause of action under RCRA, CERCLA or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. 115B ("MERLA") and the Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. 115C.
- (3) No above ground or underground tanks, are located in or about the Land or have been located under, in or about the Land and have subsequently been removed or filled, except for the underground storage tank previously removed from the Land, as referenced in Paragraph 4(h) hereof. All storage tanks which exist on or under the Land have been duly registered with all appropriate regulatory and governmental bodies and otherwise are in compliance with applicable federal, state and local statutes, regulations, ordinances and other regulatory requirements.

Buyer hereby represents and warrants to Seller that Buyer is duly formed and is in good standing under the laws of the State of Minnesota; that Buyer is duly qualified to transact business in the State of Minnesota; that Buyer has the requisite power and authority to enter into this Agreement and Buyer's Closing Documents signed by it; this Agreement and such documents have been, or will be as of the Closing Date, as applicable, duly authorized by all necessary action on the part of Buyer and have been, or will be as of the Closing Date, as applicable, duly executed and delivered; that to the best of Buyer's knowledge the execution, delivery and performance by Buyer of such documents do not conflict with or result in violation



of Buyer's governing documents or any judgment, order or decree of any court or arbiter to which Buyer is a party; to the best of Buyer's knowledge such documents are valid and binding obligations of Buyer, and are enforceable in accordance with their terms.

7. **CONDEMNATION.** The risk of loss from condemnation or threat thereof shall remain on Seller until Closing. If, prior to the Closing Date, all or any part of the Land is condemned under the power of eminent domain, is the subject of a threatened condemnation, or is conveyed to a condemning authority in lieu of condemnation, Seller shall notify Buyer in writing of the threat, condemnation or conveyance within three (3) business days of Seller obtaining knowledge of its occurrence and in any event prior to the Closing. Buyer shall, within ten (10) days of its receipt of Seller's notice, elect by giving written notice to Seller to either (a) proceed with the Closing and receive the award or condemnation payment or an assignment thereof, if the same is not received by Closing; or (b) cancel this Agreement. Prior to the date of Closing Date, Seller shall not designate counsel, appear in or otherwise act with respect to any condemnation proceedings without Buyer's prior written consent which shall not be unreasonably withheld, conditioned or delayed.
8. **WORK; DAMAGE OCCURRING PRIOR TO CLOSING, POST-CLOSING MAINTENANCE.** Prior to Closing,
  - (a) Seller shall complete and pay for the Work pursuant to the plans and specifications on Exhibit C, and provide any warranty at Closing for the Work which is required as part of the Work.
  - (b) After Closing, Seller shall continue to maintain (i) the Land, according to the requirements of the Work and as further provided in the Parkland Easement Agreement, and (ii) the Easement Areas, pursuant to the terms of the Parkland Easement Agreement, until the later of (i) five (5) years after the Closing Date, or (ii) such time as Buyer has substantially completed its improvements to such parcels.
9. **BROKERS.** Seller and Buyer each hereby represents and warrants to the other that it has not retained any agent or broker to assist it in selling or purchasing the Property and that no broker is entitled to a commission as a result of the consummation of the purchase and sale contemplated hereby. Seller shall indemnify and hold Buyer, its elected officers, employees, contractors, and agents harmless from and against any and all fees, commissions and other sums that may be due to any broker, finder or agent claiming compensation by reason of any commitment made by Seller in connection with the consummation of the transactions contemplated by this Agreement. Buyer shall indemnify and hold Seller, its officers, directors, shareholders, and affiliates harmless from and against any and all fees, commissions or other sums which may be due to any broker, finder or agent claiming compensation by reason of any commitment made by Buyer in

connection with the consummation of the transactions contemplated by this Agreement.

10. **DISCLOSURE.** Buyer is aware that the principals of Seller hold licenses as real estate brokers and/or agents in the State of Minnesota.
11. **CLOSING COSTS.** Seller shall pay its customary closing costs, including but not limited to, abstract or title commitment fees, special assessment search, state deed tax, recording fees for all documents necessary to place Buyer in record title to the Land in the condition warranted by Seller in this Agreement, the cost of the Survey, the Seller's legal fees, and one-half of the closing fee. Buyer shall pay its customary closing costs, including but not limited to the premium for any owner's and mortgagee's policies of title insurance, any mortgage registration tax and mortgage recording fees, financing costs, Buyer's legal fees, and one-half of the closing fee. Notwithstanding the foregoing, Seller agrees to pay the premium for a title policy insuring Buyer's easement rights in the Easement Areas pursuant to the Parkland Easement Agreement pursuant to Section 3, provided that the premium therefore shall not exceed \$2,000.00. At Closing, Seller shall donate Two Hundred Thousand and NO/100 Dollars (\$200,000.00) to Buyer, to be applied to payment by Buyer of the Purchase Price ("Seller Donation"). At Closing, subject to payment by Metropolitan Council of a Grant award which satisfies the requirements of Section 2(f) hereof, such amount shall be applied first to (i) payment of seventy-five percent (75%) of the Purchase Price and second (ii) the balance to reimburse Seller for up to seventy-five percent (75%) of its costs in performing environmental investigations and remediation of Adverse Environmental Conditions, with Seller funding the remaining twenty-five percent (25%) of such costs, provided that if the portion of such award available to fund the environmental costs is insufficient to fund seventy-five percent (75%) of such costs, Seller, subject to the terms of Paragraph 2(c)(v) hereof, shall accept such lesser reimbursement amount.
12. **CONTRACT FOR DEED OPTION.** If the portion of the Met Council Grant award allocated to payment of the Purchase Price is insufficient to fully fund seventy-five percent (75%) of the Purchase Price and any related Buyer expenses, Seller and Buyer agree that Buyer, at Buyer's option, may purchase the East Park parcel and/or the West Park parcel, at Buyer's option, for a portion of the Purchase Price not to exceed \$1,000,000.00, pursuant to a Contract for Deed in form and substance as provided on Exhibit I, with interest at an annual rate of seven percent (7.0%), payable monthly, with the unpaid principal balance due and payable in full five (5) years after the Closing Date. In such case, the Purchase Price payable by Buyer at Closing shall be reduced by the principal amount of such Contract for Deed.
13. **SELLER COOPERATION.** Seller shall not oppose any operations and improvements by Buyer of the West Park, East Park and Easement Areas so long as they are consistent with what is commonly done on a park, subject to the terms of the Parkland Easement Agreement, including "Grand Rounds" uses and programs. Seller shall cooperate with Buyer and support any applications by

Buyer, at no cost and expense to Seller, for funding related to the improvement and operations of the West Park, East Park and Easement Areas. The terms and conditions of this Paragraph 13 shall survive and be enforceable after the Closing.

14. **NOTICES.** Any notice required or permitted hereunder shall be given by (i) personal delivery upon an authorized representative of a party hereto; (ii) United States registered or certified mail, return receipt requested, postage prepaid; (iii) email transmission followed by mailed notice; or (iv) by a nationally recognized reputable overnight courier, properly addressed as follows:

*If to Buyer:*

Minneapolis Park and Recreation Board  
2117 West River Road  
Minneapolis, MN 55411  
Attention: Michael Schroeder, Assistant Superintendent  
of Planning Services, and Adam Arvidson, Director of  
Strategic Planning  
Email: mschroeder@minneapolisparcs.org  
cchristensen@minneapolisparcs.org

and

Gregory D. Soule  
Malkerson Gunn Martin LLP  
5353 Gamble Drive, Suite 225  
Minneapolis, MN 55416  
Email: gds@mgmlp.com

*If to Seller:*

Wall Development Company, LLC  
Attention: John Wall  
485 Malcolm Avenue SE  
Suite 250  
Minneapolis, MN 55414  
Email: john@wallcompanies.com

and

Jodi L. Johnson  
Moss & Barnett  
150 South Fifth Street, Suite 1200  
Minneapolis, MN 55402  
Business No.: (612) 877-5256  
Facsimile No.: (612) 877-5150  
Email: jodi.johnson@lawmoss.com

Notice shall be deemed given when personally delivered, upon receipt after dispatch by mail to the party to whom the same is so given or made, upon receipt

of confirmation of email transmission or one (1) business day after delivery to the overnight courier.

15. **INDEMNIFICATION.** Seller and Buyer shall indemnify and hold the other, and their elected officers, employees, contractors, and agents, together with their respective heirs, personal representatives, successors and assigns (collectively, the “**Indemnified Parties**”), harmless from and against, any related expenses, losses, liabilities, claims or damages, including reasonable attorney’s fees, that any of the Indemnified Parties incur because of the breach or falsity of any of the other’s representations, warranties, covenants and/or agreement contained herein, whether such breach or falsity is discovered before, at or after the Closing. Notwithstanding the foregoing, the liability of Buyer pursuant to this Agreement, including this Paragraph 15, is limited and governed by the provisions of Minnesota Statutes Chapter 466, and the Buyer’s obligations hereunder shall not be construed to negate or abridge or otherwise waive the liability limits of Minnesota Statutes Chapter 466. The indemnities provided herein shall survive the termination or cancellation of this Agreement as provided in Paragraph 19.

16. **DEFAULT, REMEDIES AND CANCELLATION OF AGREEMENT.**

- (a) Buyer Default and Remedies. If Buyer breaches its obligations under this Agreement, and such breach is not cured by Buyer within thirty (30) days of receiving written notice thereof from Seller pursuant to Minnesota Statutes Section 559.21, Seller may, as its exclusive remedy, cancel this Agreement.
- (b) Seller Default and Remedies. If Seller breaches its obligations under this Agreement, including any of Seller’s representations and warranties contained herein, and such breach is not cured by Seller within thirty (30) days of receiving written notice thereof from Buyer, Buyer may, as its election and as its exclusive remedy either: (i) cancel this Agreement by giving written notice of cancellation to Seller pursuant to Minnesota Statutes Section 559.21, or (ii) initiate and prosecute an action for specific performance provided the same is brought within three (3) months of such default, in which case Seller shall reimburse Buyer for its attorneys’ fees incurred with respect to such action.

17. **DEFINITIONS.** For purposes of this Agreement, the following terms have the meanings specified:

“Applicable Laws” – any and all laws, ordinances, constitutions, regulations, statutes, treaties, rules, codes, licenses, certificates, franchises, permits, requirements and Injunctions adopted, enacted, implemented, promulgated, issued, entered or deemed applicable by or under the authority of any Governmental Body having jurisdiction over Seller or the Land.

“Code” – means the Internal Revenue Code of 1986, as amended.

"Encumbrance" – any claim, lien, security interest, mortgage, lease, license, equitable interest, option, right of first refusal, condition, easement, covenant, encroachment or encumbrance of any kind.

"Governmental Body" – any governmental or quasi-governmental authority of any nature (including any governmental agency, branch, board, commission, department, instrumentality, office or other entity, and any court or other tribunal exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature, of the United States, the State of Minnesota, Hennepin County, or the City of Minneapolis, having jurisdiction over Seller, Buyer or the Land, or any matter regarding the Land or the transaction contemplated by this Agreement.

"Injunction" – any and all writs, rulings, awards, executive orders, directives, injunctions (whether temporary, preliminary or permanent), judgments, decrees or other orders adopted, enacted, implemented, promulgated, issued, entered or deemed applicable by or under the authority of any Governmental Body.

"Person" – any individual, corporation (including any nonprofit corporation), general, limited or limited liability partnership, limited liability company, joint venture, estate, trust, association, organization, or other entity or Governmental Body.

18. **OPERATION PRIOR TO CLOSING.** Seller covenants that between the date of execution of this Agreement and the Closing Date: (i) Seller shall operate and maintain the Land and Easement Areas, including completion of the Work, in the normal and usual manner as heretofore operated and in conformance with prudent, reasonable industry practices; and (ii) Seller shall maintain the Land and cause its affiliates to maintain the Easement Areas, including the Work, in good order, condition and repair, ordinary wear and tear, fire and other unavoidable casualties excepted, and (iii) shall not alter or improve the Land and cause its affiliates to maintain the Easement Areas, other than pursuant to this Agreement; and (iv) Seller shall continue to effect liability insurance coverage on the Land in such amounts as deemed appropriate by Seller. From and after the date of this Agreement, Seller shall not, without the prior written consent of Buyer, execute, amend or terminate any contract, lease, easement or other agreement regarding all or any part of the Land or Easement Areas.
19. **SURVIVAL.** The provisions of Sections 2(c)(iv), 8, 13 and 15 shall survive Closing and be enforceable thereafter. The representation and warranties of the parties contained herein and the provisions of Section 6 shall survive the Closing and consummation of the transaction contemplated hereby and shall be enforceable thereafter; provided that any and all claims and causes of action against a party relating to any of the representations and/or warranties made by that party hereunder shall be commenced by a written notice delivered to that party within one (1) year after the Closing Date and any such claims or causes of action relating to any representations and/or warranties that are not so commenced within such



period of time shall be deemed released and forever relinquished by the claiming party. The parties further agree the hold harmless, defense and indemnity obligations of Buyer contained in Section 2(c)(iv) shall survive the Closing and/or termination of this Agreement.

**20. DECLARATION OF ACCESS AND UTILITY EASEMENT.** The Parties agree that on or before the Closing, Seller will record the Declaration of Access and Utility Easement in form and substance reasonably agreeable to Seller and Buyer reserving unto Seller and over the Easement Areas the following Easements in favor of Seller which shall run with the Land:

- a. *Pedestrian Access and Improvement Rights.* Seller shall retain non-exclusive pedestrian ingress, egress and access rights in that area depicted and described on Exhibit G ("Access Area") for the purpose of allowing pedestrian ingress, egress and access to and from the north entrance of the building now and hereafter existing on Lot 2, Block 1, Malcolm Yards (as the same may be modified or changed in the future provided the North Entrance Door remains in the same general location and within the Access Area) ("Existing Door"), and the existing Lot 3, Block 1, Malcolm Yards as of the date of this Agreement. Buyer shall have the exclusive right and obligation to locate, relocate, install, construct, maintain, repair and replace a single walk path so long as it i) remains in the Access Area; ii) connects to the Exist Door; and iii) is at least six feet in width with any materials, design and size Buyer deems appropriate in its reasonable discretion provided it is paved with asphalt, concrete or pavers and is compliant with all local, state and federal laws. Neither the Buyer nor the Park Board shall block, close or restrict access by the Seller and or its invitees to the walk path other than temporary interruptions due to construction activities so long as the Park Board provides alternative reasonable access to Lot 2, Block 1. Notwithstanding the foregoing, in the event the Buyer fails to maintain or repair the existing walk path then Seller shall be entitled to maintain and repair (or replace) the existing walk path and upon Buyer's installation of the new walk path should Buyer fail to maintain or repair the same, the Seller shall have the right to maintain and repair (or replace if necessary) the new walk path, but, in either case, only if Buyer does not substantially correct such failure within thirty (30) days after receiving written notice of such failure from Seller except in the event of a safety hazard in which event Seller shall have the right to immediately repair the same if Buyer fails to honor its obligations. These reservations of rights shall run with the land.
- b. *Utility Reservation.* Seller shall retain the right to install, maintain, repair and replace and access to an existing underground electric line in that area depicted and described on Exhibit G attached hereto ("Utility Area"). Neither the Buyer nor the Park Board shall block, close or restrict access by the Seller to the Utility Area, other than temporary interruptions due to construction activities provided alternative reasonable access is provided. This reservation of rights shall run with the land.

- c. *Pedestrian and Vehicular Access and Improvement Rights.* Seller shall retain non-exclusive ingress, egress and access and utility rights in that area depicted and described on Exhibit G ("**Malcolm Avenue Access Area**") no greater than forty (40) feet in width for the purpose of allowing vehicular and pedestrian ingress and egress to and from Malcolm Avenue SE and the currently legally described Lot 3, Block 1, Malcolm Yards and the right to install, maintain, repair and replace any access any and all underground utilities the same. Developer shall further be provided access rights to the Malcolm Avenue Access Area for purposes of and shall further have the right to install, construct, maintain, repair and replace a roadway and/or drive path and underground utilities in the Malcolm Avenue Access Area with any materials, design and size it deems appropriate, subject to Buyer approval thereof, not to be unreasonably conditioned, withheld or delayed. Neither the Buyer nor the Park Board shall block, close, or restrict access and/or ingress and egress by the Seller and or its invitees to the Malcolm Avenue Access Area, provided that the Buyer shall also have the easement rights in the Malcolm Avenue Access Area provided in Section 2 of the Parkland Easement Agreement, and appropriate traffic controls, such as stop signs, shall be utilized to ensure safe use of the trail by the public. These reservations of rights shall run with the land. Notwithstanding the foregoing, the parties agree that the easement over the Malcolm Avenue Access and Utility Area shall be effective upon Seller's, or its assigns, written election and the payment of an amount equal to \$42.00 per square foot of the portion of the Malcolm Avenue Access Area actually used by Seller for access and utilities (to be evidenced by an amendment signed at the time of such use); to the Park Board provided, however, that this reservation shall expire automatically if Seller fails to construct a roadway and utilities in the Malcolm Avenue Access Area within ten (10) years of closing.
- d. *Reservation of Rights for Work.* The Declaration of Access and Utility Easement shall include the right of Seller and its contractors, agents, representatives and assigns to enter upon the Access Area (as allowed under Section 20(a) Utility Area and Malcolm Avenue Access Area and such other parts of the Easement Area as may be reasonably necessary for the purpose of doing any work allowed under the same within any easement area or other grant provided in this Section 20, and installation, repair or maintenance of any improvements pursuant to such Declaration, provided that Seller and/or the easement beneficiary repairs any damage caused by such activities and to the extent reasonably possible minimizes the extent and timing of such activities and interference with Buyer's occupancy thereof pursuant to the Parkland Easement Agreement.
21. **ASSIGNMENT.** Neither party shall assign, convey or transfer its interests and rights under this Agreement without the prior written approval of the other party, which approval may be withheld in the other party's sole and absolute discretion.
22. **EXCHANGE.** If requested by either party, the other party shall cooperate with the exchanging party in structuring this transaction as a like-kind exchange under Section 1031 of the Code, provided that the cooperating party shall incur no liability, additional cost or delay in connection therewith. The exchanging

party(ies) shall bear the additional transactional costs attributable to the election of a qualifying exchange. In connection with such exchange, the exchanging party's rights and obligations hereunder shall be assignable to a qualified intermediary party.

23. **TIME OF THE ESSENCE.** Time is of the essence to both Seller and Buyer in the performance of this Agreement.
24. **MISCELLANEOUS.** This Agreement constitutes the entire and complete agreement between the parties hereto with respect to the Land and may only be amended by a written agreement executed by both parties. This Agreement may be executed, manually or electronically, in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signature on a copy of this Agreement transmitted electronically, by facsimile, pdf or otherwise shall be deemed to have the same force and effect as an original signature. No failure or delay in action by a party hereto shall be deemed a waiver of such party's rights. All of the terms and conditions stated in the Recitals of this Agreement shall be enforceable obligations of the parties.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month and year first above written.

**SELLER:**

WALL DEVELOPMENT COMPANY, LLC

By: [Signature]

Its: President

Date: 10/23/24

**BUYER:**

CITY OF MINNEAPOLIS, A MINNESOTA MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS PARK AND RECREATION BOARD, A PUBLIC BODY POLITIC AND CORPORATE UNDER THE LAW OF MINNESOTA

By: [Signature]

President

Date: 10/23/24

By: [Signature]

Secretary

Date: 10/23/2024

Approved as to form:

By: [Signature]

Buyer's attorney

Date: 10/23/24

**EXHIBIT A**

DEPICTION OF WEST PARK AND EAST PARK (Recital B)



**EXHIBIT B**

DRAFT PLAT (Recital C)



# MALCOLM YARDS SECOND ADDITION

R.T. DOC. NO. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, that said Development Company, LLC, a Minnesota limited liability company, the owner of the following described property situated in the County of Hennepin, State of Minnesota, to wit:

Lot 3, Block 1, MALCOLM YARDS.

Has caused the same to be surveyed and plotted as MALCOLM YARDS SECOND ADDITION and does hereby dedicate to the public for public use the one public ways created by this plat.

In witness whereof and that Development Company, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and Development Company, LLC.

By \_\_\_\_\_

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CITY COUNCIL, CITY OF MINNEAPOLIS, MINNESOTA

This plat of MALCOLM YARDS SECOND ADDITION was prepared and submitted by the City Council of the City of Minneapolis, Minnesota, at a properly meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and said plat is in compliance with the provisions of Minnesota Statutes, Section 260.05, SUBD. 2.

CITY COUNCIL, City of MINNEAPOLIS, Minnesota

By \_\_\_\_\_, Mayor

\_\_\_\_\_, Deputy Mayor

\_\_\_\_\_, Deputy Mayor

\_\_\_\_\_, Deputy Mayor

\_\_\_\_\_, Deputy Mayor

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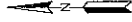
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# MALCOLM YARDS SECOND ADDITION

R.T. DOC. NO. \_\_\_\_\_

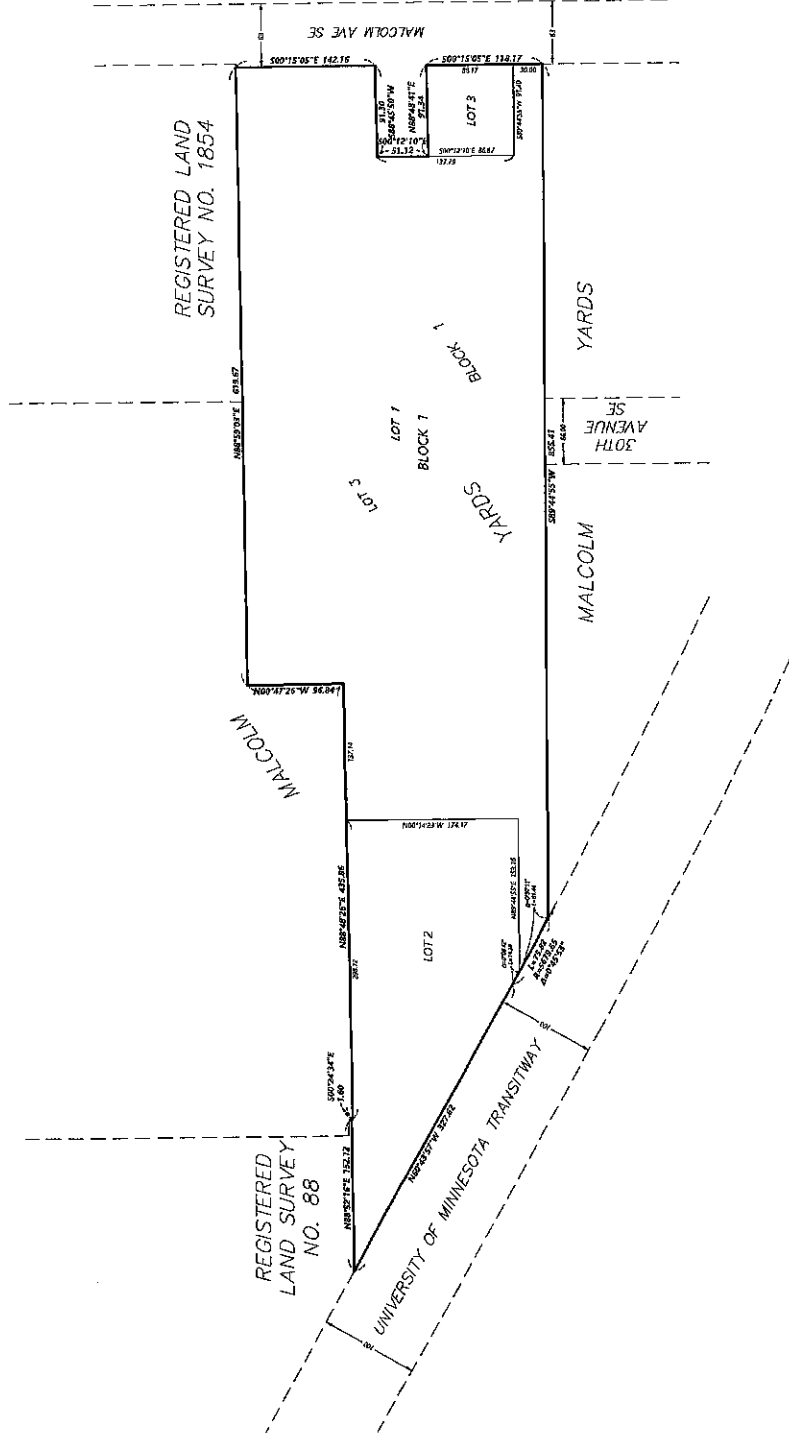


SCALE IN FEET  
0 60 120

READINGS ARE BASED ON THE SOUTH LINE  
OF LOT 3, BLOCK 1, MALCOLM YARDS,  
WHICH IS ASSUMED TO BE AN  
ACCESSION TO BEAR  
S89°44'55"W

## LEGEND

- SET 1/2 INCH x 14 PLY IRON NAIL WITH PLASTER  
CAP ASSUMED HAS BEEN
- FOUND IRON NAIL/STAKE



## **EXHIBIT C**

### **THE WORK (Recital D)**

#### **East Park**

1. Remove existing curb cut and driveway (including any gravel to a depth of one foot).
2. Remove any soil unsuitable for growing grass and any soil up to a depth of four feet, which does not satisfy the "Residential Standards" (as defined in Paragraph 2(c)(v) of the Agreement) and replace with topsoil on the top six inches over clean, compactable fill soil.
3. To the extent required pursuant to Paragraph 2(c)(v) of the Agreement, remove any contaminated soils at a depth between 4 and 12 feet, which would be required to satisfy the "Residential Standards," and replace with clean, compactable fill.
4. Grade, as necessary, to create a level surface, pursuant to topographical plan supplied by Seller excavation contractor, and approved in writing by Buyer.
5. Seed the site and obtain a contractor turf warranty for the same, which shall remain effective until one year after establishment.

#### **West Park**

1. Remove (i) all existing fencing, debris, building structures, including foundations and any underground utility lines that serviced such buildings, (ii) all overhead and underground (if any) electric lines (except those which Buyer asks to be retained), (iii) remove existing retaining wall that adjoins grain elevators, and (iv) cap/abandon two existing monitoring wells. Replace any soil and other subsurface improvements removed with topsoil on the top six inches and clean, compactable fill soil meeting the standards of the MPCA below the top six inches of topsoil.
2. Remove all (i) gravel, (ii) soil unsuitable for growing grass, and (iii) any soil, up to a depth of four feet, which does not satisfy the "Residential Standards" with topsoil on the top six inches and clean, compactable fill soil below the top six inches of topsoil.
3. To the extent required pursuant to Paragraph 2(c)(v) of the Agreement, remove any contaminated soils at a depth between 4 and 12 feet, which would be required to satisfy the "Residential Standards," and replace with clean, compactable fill soil.
4. Grade, as necessary, to create a level surface, pursuant to a topographical plan supplied by Seller's excavation contractor, and approved in writing by Buyer.

5. Seed the site and obtain a contractor turf warranty for the same, which shall remain effective until one year after establishment.

#### Easement Areas

1. Excluding the gravel trail, remove all other gravel, soil unsuitable for growing grass, and any soil up to a depth of four feet, which does not satisfy the "Residential Standards." Areas with growing grass shall be deemed to have suitable soil for growing grass.
2. Replace any soil removed pursuant to item 1 with topsoil meeting Buyer's standards, and plant grass in any areas so disturbed.
3. If necessary, grade to create a level surface, pursuant to grading plan supplied by Seller's excavation contractor and approved, in writing, by Buyer with the exception of the rise and fall of the existing trail which currently exist and will be maintained and subject to limitations related to existing utilities.
4. Seed the portions of the site excavated or disturbed and obtain a contractor turf warranty for the same, which shall remain effective until one year after establishment.

Environmental. For West Park, East Park and Easement Area, complete all remediation work required pursuant to Paragraph 2(c)(v) hereof.