Minneapolis
Park & Recreation Board

# Resolution 2020-112

Resolution Authorizing the Minneapolis Park and Recreation Board to Enter into Amendment No. 3 to an Operating Agreement, Related to the Commons, Being Parkland Within the Minneapolis Park System, Between the City of Minneapolis and Green Minneapolis as Assigned to and Assumed by the Minneapolis Park and Recreation Board

Whereas, The Minneapolis Park & Recreation Board (MPRB) is the steward of Minneapolis parks;

Whereas, The MPRB is authorized to contract with public and private entities in the performance of its functions;

Whereas, In December 2013 the City of Minneapolis approved the Downtown East Development, a redevelopment of a five-block area with mixed-used development which includes a 4.2-acre public park located generally between 5th Avenue South, 4th Street South, Park Avenue South, and Fifth Street South, with specified terms and now referred to as The Commons;

Whereas, The Commons is parkland within the Minneapolis park system;

Whereas, The Board of Commissioners adopted Resolution 2014-371 on December 17, 2014 by which the MPRB and the City of Minneapolis entered into a Memorandum of Understanding (MOU) and Lease, by which MOU would establish a framework for operations of The Commons, including operations performed by a third-party conservancy, and by which Lease the City of Minneapolis would operate The Commons for a period concurrent with an Urban Park Use Agreement, an agreement created and approved by Ryan Companies, the lead entity for the mixed-used development, and the Minnesota Sports Facility Authority directing exclusive use of The Commons to dates determined by the parties to the agreement and establishing standards relating to the operations of The Commons, all of which would promote the public interest in The Commons while ensuring compliance with state law and City Charter;

Whereas, The Urban Park Use Agreement runs current with a Stadium Use Agreement between the Minnesota Sports Facility Authority and the Minnesota Vikings, resulting in a term of 30 years plus an additional 20 years;

Whereas, Litigation related to The Commons and the Urban Park Use Agreement resulted in an order by the District Court requiring the City of Minneapolis to cease operation and management of The Commons beginning on May 1, 2019;

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Whereas, The City of Minneapolis and the MPRB appealed the ruling of the District Court related to The Commons, rendering the litigation to be ongoing and potentially not resolved fully prior to the expiration of the Operating Agreement with Green Minneapolis;

Whereas, To effectively meet the requirements of the District Court, the City of Minneapolis and the MPRB entered into a Sublease Agreement, subleasing The Commons to the MPRB through 11:59 pm, December 31, 2019, with extension through the pendency of the appeal;

Whereas, To further comply with the order of the District Court, the City of Minneapolis and the MPRB entered into an Assignment and Assumption Agreement wherein the City of Minneapolis' interest, rights, benefits, duties and obligations under an Operating Agreement between the City of Minneapolis and Green Minneapolis, originally dated March 1, 2017, and amended March 1, 2018 and January 1, 2019, were directed to the MPRB, with the term of such Assignment and Assumption Agreement being essentially concurrent with the Sublease Agreement;

Whereas, The Sublease Agreement and the Assignment and Assumption Agreement were approved by the Board of Commissioners through Resolution 2019-169 on April 17, 2019;

Whereas, The MPRB and City of Minneapolis entered into Contract No. COM0000619 through which the City of Minneapolis provided funding to the MPRB sufficient to cover the cost of operations under the Assignment and Assumption Agreement and the Operating Agreement with Green Minneapolis;

Whereas, Green Minneapolis has provided services related to the care, maintenance and operations of The Commons under the Operating Agreement since it was assigned and assumed by the MPRB;

Whereas, The Assignment and Assumption Agreement expires at the end of 2019, leaving operations of The Commons unassigned and unbudgeted;

Whereas, The City of Minneapolis, through an action of the City Council (RCA-2019-01396), amended Contract No. COM0000619 to provide to the MPRB an amount of $175,000 related to care of The Commons through March 31, 2020;

Whereas, The amendment provides a means of perpetuating care and maintenance of The Commons until the end of March 2020, at which point litigation related to The Commons would be resolved to a point where options for future actions would be more fully defined;

Whereas, Green Minneapolis has indicated its capacity to continue services under the terms of the Operating Agreement through March 31, 2020; and

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Whereas, This resolution is supported by the MPRB 2007-2020 Comprehensive Plan that envisions “Dynamic parks that shape city character and meet diverse community needs;”

RESOLVED, That the Board of Commissioners authorizes the Minneapolis Park and Recreation Board to enter into Amendment No. 3 to an Operating Agreement, related to The Commons, being parkland within the Minneapolis Park System, between the City of Minneapolis and Green Minneapolis as assigned to and assumed by the Minneapolis Park and Recreation Board; 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.

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TO: Administration & Finance Committee

FROM: Michael Schroeder,

DATE: January 22, 2020

SUBJECT: Resolution Authorizing the Minneapolis Park and Recreation Board to Enter into Amendment No. 3 to an Operating Agreement, Related to the Commons, Being Parkland Within the Minneapolis Park System, Between the City of Minneapolis and Green Minneapolis as Assigned to and Assumed by the Minneapolis Park and Recreation Board

**BACKGROUND**

This resolution, if approved by the Board of Commissioners, authorizes staff to enter into Amendment No. 3 to an Operating Agreement, related to The Commons. The Operating Agreement is the contract between the City of Minneapolis and Green Minneapolis supporting care, maintenance, and operations for The Commons. The Operating Agreement was assigned to and assumed by the Minneapolis Park and Recreation Board (MPRB) as a consequence of several actions described below. Amendment No. 3 extends the services of Green Minneapolis until the end of March 31, 2020 for an amount of $175,000, which is being provided to the MPRB by the City of Minneapolis.

The Commons was initiated in 2013 as part of a five-block mixed-use redevelopment in the Downtown East neighborhood. The Commons exists on parts of two blocks and comprises 4.2 acres. Importantly, parks in Minneapolis are the sole purview of the MPRB; at the time of its initiation, the MPRB believed the new park to be beyond its ability to program, operate, and maintain according to an Urban Park Use Agreement entered into by Ryan Companies, the mixed-used developer and the Minnesota Sports Facility Authority. The Urban Park Use Agreement directed exclusive use of The Commons to dates determined by the parties to the agreement and a separate Stadium Use Agreement between the Minnesota Sports Facility Authority and the Minnesota Vikings. The Urban Park Use Agreement has a term of 30 years plus an option for an additional 20 years. Ultimately, the implementation of The Commons required an agreement with the City of Minneapolis related to its care, maintenance, and operations, which was adopted through adopted Resolution 2014-371 on December 17, 2014. The agreement occurred in two parts, the first being a Memorandum of Understanding that established a framework for operations of The Commons, including operations performed by a third-party conservancy, and the second being a Lease by which Lease the City of Minneapolis would operate The Commons for a period concurrent with an Urban Park Use Agreement.

The series of agreements allowing The Commons to be operated by the City of Minneapolis is the subject of ongoing litigation. The District Court ordered that the City of Minneapolis cease operation and management of The Commons beginning on May 1, 2019. Through a Sublease Agreement (Attachment A) executed between the City of Minneapolis and the MPRB, the MPRB has assumed responsibility for operating and managing The Commons. Through an Assignment and Assumption Agreement (Attachment B), the City of Minneapolis transferred to the MPRB its interest, rights, benefits, duties and

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obligations under the Operating Agreement (Attachment C) between the City of Minneapolis and Green Minneapolis, originally dated March 1, 2017, and amended March 1, 2018 and January 1, 2019, to allow for extended periods of maintenance and operations. To meet the requirements of the District Court, The Sublease Agreement and the Assignment and Assumption Agreement commenced on May 1, 2019. The Sublease Agreement extends through 11:59 pm, December 31, 2019, with extension through the pendency of the appeal. The Assignment and Assumption Agreement ends on December 31, 2019. The Sublease Agreement and the Assignment and Assumption Agreement were approved by the Board of Commissioners through Resolution 2019-169 on April 17, 2019.

The litigation related to The Commons is ongoing. To allow for continued care, maintenance, and operations of The Commons, Green Minneapolis and the MPRB determined it to be in their mutual best interest and in the interest of the park-using public to extend the Operating Agreement through an amendment that would expire at the end of March 31, 2020. By that time, the determination of an appeal to the litigation would most likely be resolved and a permanent plan for The Commons could be established.

As a part of the agreements with the City of Minneapolis, a contract was established to provide funding to the MPRB sufficient to cover the costs of the Operating Agreement with Green Minneapolis through the Assignment and Assumption Agreement. That contract, Contract No. COM0000619 was amended (Attachment D) by the City of Minneapolis on December 13, 2019, to provide the MPRB an amount of $175,000, which allows for the costs of the work of Green Minneapolis through March 31, 2020. Green Minneapolis has indicated its interest and capacity to continuing work at The Commons in a letter to the MPRB (Attachment E).

The contract with Green Minneapolis will continue to be managed by the MPRB through its Planning Division, with input from other functional units of the MPRB as appropriate. Planning staff meet monthly with staff of Green Minneapolis to review, among other things, a schedule of events and activities, efforts related to the care and maintenance of the park, and the annual budget. Customer Service staff further coordinate with Green Minneapolis on events and activities.

While MPRB's Asset Management staff have reviewed The Commons relative to maintenance activities, it is unlikely Asset Management staff could be ready to take on those activities by the end of the year in the same way it has been happening through Green Minneapolis since the park's opening in 2016.

**RECOMMENDATION**

Staff recommends that the Board of Commissioners authorizes the Minneapolis Park and Recreation Board to enter into Amendment No. 3 to an Operating Agreement, related to The Commons, being parkland within the Minneapolis Park System, between the City of Minneapolis and Green Minneapolis as assigned to and assumed by the Minneapolis Park and Recreation Board.

This action is supported by the following vision and goal statements in the MPRB 2007-2020 Comprehensive Plan:

**Vision Theme 3: Dynamic parks shape city character and meet diverse community needs.**

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**Goal:** Parks shape an evolving city.

**Goal:** Park facility renewal and development respects history and focuses on sustainability, accessibility, flexibility, and beauty.

**ATTACHMENTS:**

- Attachment A - Sublease Agreement - The Commons(PDF)
- Attachment B - Assignment and Assumption Agreement (PDF)
- Attachment C - Operating Agreement with Mpls and Green Minneapolis (PDF)
- Attachment E - Green Mpls Letter Regarding Contract Renewal The Commons (PDF)
- Attachment D - Amendment to Sublease Agreement (PDF)

Prepared By: Cindy Anderson, Executive assistant for Planning Division, Design and Project Management
Review:

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|---|---|---|
| Cindy Anderson | Completed | 01/08/2020 3:27 PM |
| Cliff Swenson | Completed | 01/08/2020 3:28 PM |
| Michael Schroeder | Completed | 01/08/2020 3:28 PM |
| Jennifer Ringold | Completed | 01/08/2020 3:28 PM |
| Al Bangoura | Completed | 01/08/2020 3:28 PM |
| Administration & Finance Committee | Pending | 01/08/2020 5:40 PM |
| Minneapolis Park and Recreation Board | Pending | 01/22/2020 5:00 PM |