AGREEMENT REGARDING REGIONAL PARK LAND IN THE CITY OF MINNEAPOLIS

THIS AGREEMENT, between the Minneapolis Park and Recreation Board (the "Minneapolis Park Board") and the Metropolitan Council (the "Council"), governs an exchange of Minneapolis Park Board property for regional park land located on Nicollet Island in the City of Minneapolis.

BACKGROUND

- 1. Pursuant to Minnesota Statutes section 473.147, subdivision 1, the Council prepares and adopts (in conjunction with the Metropolitan Parks and Open Space Commission) a long-range system policy plan for regional recreation open space as part of the Council's metropolitan development guide.
- 2. "Regional recreation open space" is defined by Minnesota Statutes section 473.121, subdivision 14 as "land and water areas, or interests therein, and facilities determined by the Metropolitan Council to be of regional importance in providing for a balanced system of public outdoor recreation for the metropolitan area, including but not limited to park reserves, major linear parks and trails, large recreation parks, and conservatories, zoos, and other special use facilities."
- 3. The Minneapolis Park Board is an "implementing agency" as that term is defined in Minnesota Statutes section 473.351, subdivision 1(a) and is responsible for developing, operating and maintaining parks and park-related facilities within the City of Minneapolis, including park lands located in the City of Minneapolis that are part of the regional park system.
- 4. The Minneapolis Park Board acquired with regional grant funds certain land on Nicollet Island, including a 1.48-acre parcel located on the Island. As required by Council policy, the land is subject to a restrictive covenant that limits the use of the property to regional recreation open space uses, unless a change is agreed to by the Council.
- 5. The Council's 2030 Regional Parks Policy Plan contains policies and strategies to help ensure a balanced system of public outdoor recreation for the seven-county metropolitan area. Strategy 5(b) of the Policy Plan states that lands in the regional parks system may be converted to other uses if approved by the Council through "an equally valuable land or facility exchange" as that phrase is defined in Strategy 5(b).
- 6. In April 2007, the Minneapolis Park Board asked the Council to consider removing the restrictive covenant on the 1.48-acre parcel and exchanging that parcel for 2.89 acres of land located on the West Bank of the Mississippi River in Minneapolis.

- 7. At its August 22, 2007 regular meeting, the governing body of the Metropolitan Council considered the Minneapolis Park Board's land exchange request under the "equally valuable land" policy stated in Strategy 5(b) of the *Policy Plan*. The Council denied the request, but adopted a motion that authorizes its Chair and Regional Administrator to negotiate and execute with the Minneapolis Park Board an agreement under which the Council will release the restrictive covenant on the 1.48-acre Nicollet Island parcel, but only after:
 - (a) a regional park restrictive covenant is recorded against the 2.89-acre parcel located on the West Bank of the Mississippi Riverfront North of Plymouth Avenue; and
 - (b) the Minneapolis Park Board provides a binding commitment, within thirty (30) days, to provide additional acreage not currently encumbered as open space, that is deemed by the Chair of the Metropolitan Council as acceptable for inclusion in the regional park system and sufficient to satisfy the "equally valuable land" provision of Strategy 5(b) of the 2030 Regional Parks Policy Plan and which will be subject to the Council's restrictive covenant by no later than March 1, 2009.

RESTRICTIVE COVENANT ON 2.89-ACRE PARCEL

8. The Minneapolis Park Board will record against the 2.89-acre parcel (identified as Parcel 1 in Attachment A to this Agreement) a restrictive covenant substantially in the form depicted in Attachment B to this Agreement. The street address of the 2.89-acre parcel is: 1-17th Avenue North, Minneapolis, Minnesota. The PID is: (15-029-24-43-0009).

ADDITIONAL ACREAGE

- 9. The Minneapolis Park Board represents that it is the fee owner of the following four additional parcels (identified as Parcels 2 through 5 in Attachment A), and that none of these four parcels currently is encumbered as regional recreation open space. As required by the Council's August 22, 2007 action, the Minneapolis Park Board will place a restrictive covenant on the following additional acreage:
 - Parcel 2: 1312 West River Road North, Minneapolis, Minnesota (1.30 acres) PID: (15-029-24-43-0010)
 - Parcel 3: 2-17th Avenue North, Minneapolis, Minnesota (1.38 acres) PID: (15-029-24-42-0010)
 - Parcel 4: 1700 West River Road North, Minneapolis, Minnesota (0.87 acres) PID: (15-029-24-42-0011)
 - Parcel 5: 2000 West River Road North, Minneapolis, Minnesota (2.76 acres) PID: (15-029-24-13-0013)
- 10. The restrictive covenants placed on Parcels 2 though 5 will be substantially in the form depicted in Attachment B.

BINDING COMMITMENT

11. The Minneapolis Park Board Commissioners' approval of this Agreement and the execution of this Agreement by the Minneapolis Park Board's authorized representatives constitute the Minneapolis Park Board's binding commitment to provide additional acreage not currently encumbered as regional recreation open space.

ACCEPTANCE OF ADDITIONAL ACREAGE AND RELEASE OF RESTRICTIVE COVENANT ON 1.48-ACRE PARCEL

- 12. The Chair of the Council reviewed the additional acreage identified in this Agreement under the policy and criteria stated in Strategy 5(b) and has determined:
 - (a) the additional acreage complies with the Council's August 22, 2007 action; and
 - (b) together with the 2.89-acre parcel on the West Bank of the Mississippi Riverfront North of Plymouth Avenue, the additional acreage identified in this Agreement satisfies the "equally valuable land" provision of Strategy 5(b).
- 13. Upon proof of recordation of a restrictive covenant on the 2.89-acre parcel, the Council will execute and provide to the Minneapolis Park Board a release of covenant on the 1.48-acre parcel located on Nicollet Island.

ADDITIONAL PARCEL

14. A 3.47-acre parcel of land (identified as Parcel 6 in Attachment A) located immediately north of Parcel 5 is owned by the Minneapolis Park Board. Parcel 6 was acquired with Council grant funds but a restrictive covenant has not yet been placed on the property. The Minneapolis Park Board will record a restrictive covenant against the 3.47-acre parcel as soon as it is reasonably possible to do so. The restrictive covenant placed on Parcel 6 will be substantially in the form depicted in Attachment B.

EFFECT AND EXECUTION

- 15. This Agreement is a binding and legally enforceable agreement which either party may enforce through appropriate legal action in the Fourth Judicial District Court, Hennepin County, or other court of competent jurisdiction.
- 16. This Agreement is null and void if the restrictive covenants are not recorded against Parcels 2 through 5 by March 1, 2009.
- 17. The individuals signing below represent that the governing bodies of their respective agencies have authorized them to execute this Agreement on their respective agencies' behalf. This Agreement is effective on the date this Agreement is executed by the Council's Chair and Regional Administrator.

MINNEAPOLIS PARK AND RECREATION BOARD	METROPOLITAN COUNCIL
Jon C. Olson, President	Peter Bell, Chair
Date:	Date:
Don Siggelkow, Secretary	Thomas H. Weaver Regional Administrator
Date: 17 1 GOE 17 1 9/24/07	Date:
Approved as to form: Bui 7: Ruio	

MPR6COVENANT1

Minneapolis Park Board Attorney

09/13/07

ATTACHMENT A

This Attachment A comprises this cover page and the attached aerial photograph depicting the following six parcels of riverfront property in Minneapolis, Minnesota:

Parcel 1 (2.89 acres)

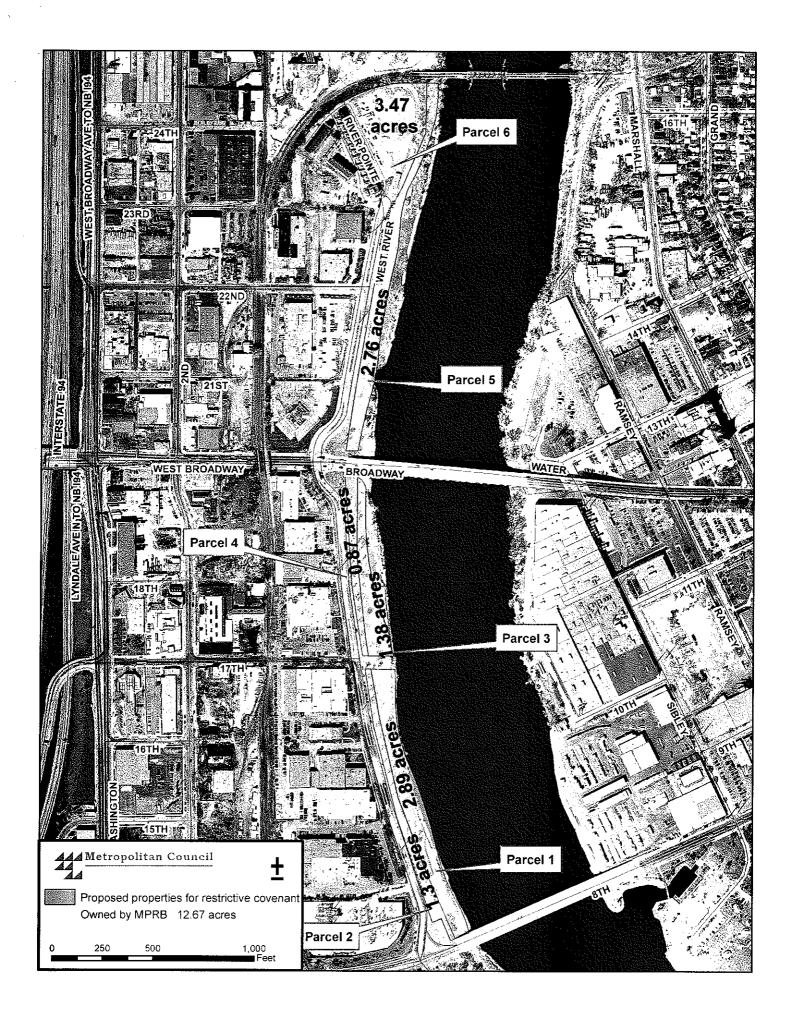
Parcel 2 (1.30 acres)

Parcel 3 (1.38 acres)

Parcel 4 (0.87 acres)

Parcel 5 (2.76 acres)

Parcel 6 (3.47 acres)



ATTACHMENT B

This Attachment B comprises this cover page and the attached five -page Agreement and Restrictive Covenant.

Agreement and Restrictive Covenant

THIS AGREEMENT AND RESTRICTIVE COVENANT is made and entered into this day
, 2007, by and between the City of Minneapolis, acting by and through its Park and
Recreation Board (the "Minneapolis Park and Recreation Board), a Minnesota municipal corporation, and
the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota.

RECITALS

- 1. The Minneapolis Park and Recreation Board has acquired (describe here nature of interest) in the following described real property, to-wit:
 - , hereinafter referred to as the "Property."
- 2. At its August 22, 2007 regular meeting the governing body of the Metropolitan Council adopted a motion under which it agreed to release a restrictive covenant on certain regional park land located on Nicollet Island in the City of Minneapolis if the Minneapolis Park and Recreation Board provided other land in exchange for the Nicollet Island park land.
- 3. On September ___, 2007, the Metropolitan Council and the Minneapolis Park and Recreation Board entered into an agreement under which the Minneapolis Park and Recreation Board agreed to exchange the above-described Property for the Nicollet Island park land and place a restrictive covenant on the Property that requires the Property to be used only for regional recreational open space purposes.

NOW, THEREFORE, in consideration of the grant made by the Metropolitan Council to the

and in consideration of the mutual agreements and covenants contained in
this agreement, the parties agree as follows:

- 1. No sale, lease, mortgage, or other conveyance, nor the creation of any easement, restriction, or other encumbrance against the Property shall be valid for any purpose unless the written approval of the Metropolitan Council or its successors is duly filed and recorded at the time of the filing and recording of the instrument to which such approval pertains, nor shall the Property be used for any purpose except regional recreational open space purposes as those purposes are from time to time defined by the Metropolitan Council or its successors, unless the Metropolitan Council or its successors shall consent to the other use or uses by written instrument duly filed and recorded and designating the nature, extent, and duration of the use for which such consent is given.
- 2. As a condition to this Grant, and provided that conveyance of such easement or easements is consistent with the Approved Master Plan, the Grantee agrees to convey to the Council, its successors or assigns, a permanent easement or easements, hereinafter referred to as "Wastewater Facilities Easement[s]" for future regional wastewater conveyance corridors on the Property. Upon written request by and at no cost to the Council, Grantee will

execute and deliver to the Council the Wastewater Facilities Easement[s] substantially in the form of the Easement attached hereto and incorporated herein as Exhibit A for the location or locations described by the Council in its written request to Grantee. The Council may exercise this contractual right to the Wastewater Facilities Easement[s] on one or more occasions.

The Council agrees to work cooperatively with Grantee to locate the Wastewater Facilities Easement[s] and the regional wastewater conveyance facilities on the Property in a manner which minimizes the impact on existing and planned park system facilities on the Property and natural resources. As further consideration for the conveyance of the Wastewater Facilities Easement[s], the Council agrees to waive the Sewer Availability Charge for the Property.

As a further condition for this Grant, the Council may, at any time after execution of this Grant, provide to Grantee written notification of the proposed location of a future regional wastewater conveyance corridor on the Property. Grantee agrees not to place or allow to be placed any restrictions, conditions, or encumbrances on the Property within the proposed future regional wastewater conveyance corridor without the written consent of the Council

This Agreement and Restrictive Covenant may be enforced by the Metropolitan Council or its successors or by any citizen residing within the metropolitan area, as then defined, by appropriate action in the courts of the State of Minnesota.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in their respective names all as of the date first above written.

METROPOLITAN COUNCIL

	By Thomas H. Weaver Its Regional Administrator	
	Dated	
STATE OF MINNESOTA		
COUNTY OF HENNEPIN		
Thomas H. Weaver, the Regi	acknowledged before me this day of Administrator of the Metropolitan Council, a public of Minnesota on behalf of the subdivision.	, 2007, by corporation and
Notary Public		

THE CITY OF MINNEAPOLIS, ACTING BY AND THROUGH ITS PARK AND RECREATION BOARD

	Ву
	Jon C. Olson
	Its President
	By Don Siggelkow Its Secretary
STATE OF MINNESOTA	} } ss
COUNTY OF HENNEPIN	}
he President, and by Don Si	knowledged before me this day of, 2007, by Jon C. Olson, ggelkow, the Secretary of the City of Minneapolis, acting by and through its municipal corporation of the State of Minnesota, on behalf of the
Notary Public	

DRAFTED BY:
Peter A. Hanf
Associate General Counsel
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101
(651) 602-1749

EXHIBIT A

EASEMENT

THIS INSTRUMENT, MADE THIS day of, 2007, by and between
, of the County of, State of Minnesota, Grantor(s), and the
Metropolitan Council, a public corporation and political subdivision of the state (successor to the
Metropolitan Waste Control Commission), Grantee;
WITNESSETH, that Grantor(s), in consideration of One Dollar and other good and valuable
consideration to in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby
grant, bargain, sell, and convey to Grantee, its successors and assigns, the following described easement
for sanitary sewer and utility purposes:
[Insert]
The above described easement includes the rights of grantee, its contractors, agents and employees
to do whatever is necessary for enjoyment of the rights granted herein including the right to enter the
easement for purposes of constructing, operating, maintaining, altering, repairing, replacing, and/or
removing said sewers and utilities.
Grantor(s), heirs, successors and assigns, will not erect, construct, or create any building,
improvement, obstruction or structure of any kind, either above or below the surface, or stockpile soils,
construction debris, or construction equipment or change the grade thereof, without the express written
permission of the Grantee.

Notwithstanding the aforementione	ed provision, the following improvements by Grantor(s),
heirs, successors, and assigns do not require	re Grantee's written approval: fences, parking lots, street and/or
roadways, landscaping, bushes, shrubs. He	owever, Grantor(s) hereby agree(s) that Grantee will not be
responsible for and will not pay for the los	s of or any damage to, or replace or restore the following items
within the easement area: fences, trees, shr	ubs, bushes or other plantings, other than grass or sod.
Grantor(s) covenant(s) that	_ is/are the Owner(s) and is/are in possession of the above
described premises and has/have lawful rig	tht and authority to convey and grant the easement described
herein.	
IN WITNESS WHEREOF, the said	d Grantor(s) has/have caused this Easement to be executed as of
the date noted above.	
	By Its
	Ву
STATE OF }	Its
COUNTY OF }	
	acknowledged said instrument to be the
DRAFTED BY: Peter A. Hanf Metropolitan Council	Notary Public

DRAFTED BY: Peter A. Hanf Metropolitan Council 390 Robert Street North St. Paul, MN 55101 651) 602-1749