

**FIRST AMENDMENT TO
FUNDING AGREEMENT FOR CONSTRUCTION OF A SKATE
PARK AT THE GARY NEW DULUTH RECREATION AREA
BETWEEN THE CITY OF DULUTH
AND THE GND DEVELOPMENT ALLIANCE**

WHEREAS, this FIRST AMENDMENT TO FUNDING AGREEMENT FOR CONSTRUCTION OF A SKATE PARK AT THE GARY NEW DULUTH RECREATION AREA (this “First Amendment”) is entered into by and between the City of Duluth, a municipal corporation created and existing under the laws of the State of Minnesota (the “City”), and the GND Development Alliance, a Minnesota 501(c)(3) non-profit corporation (the “Alliance”). The City and the Alliance are hereinafter referred to as a “Party” or collectively as the “Parties.”

WHEREAS, the Parties entered into a Funding Agreement dated November 20, 2023 (the “Agreement”), which memorializes the respective financial and administrative commitments of the Parties to jointly fund the final phase of construction of the Gary New Duluth Recreation Area skatepark (the “Project”); and

WHEREAS, the Agreement may, by its terms, be amended by written agreement and upon approval by resolution of City Council; and

WHEREAS, the cost of completing the Project exceeds the financial commitments in the Agreement; and

WHEREAS, the City wishes to allocate an additional \$67,631 in St. Louis River Corridor Initiative funding through City bonding for the purpose of supporting implementation of the Project; and

WHEREAS, the Alliance wishes to provide additional funding for Project contingency, in an amount not to exceed \$50,000, using donations, pledges, and other grant funds awarded to the Alliance;

NOW, THEREFORE, the City and the Alliance agree to amend the Agreement as follows:

In this First Amendment, the deleted items will be ~~struck out~~ and added items will be underlined.

I. The first paragraph of Section 3, Part B of the Agreement will be amended as follows:

3. City Responsibilities.

B. The City shall promptly pay the amounts due under the Construction Contract, using both funds managed by the City, including St. Louis County economic development funds, 2024 hotel-motel and food and beverage tourism tax funds, ~~and Athletic Venue Reinvestment Initiative funds,~~ and St. Louis River Corridor funds, which total ~~\$590,000~~ \$657,631, and funds paid to the City by the Alliance, an amount not to exceed ~~\$300,000~~ \$350,000, to cover costs in excess of said funds managed by the City.

II. The first paragraph of Section 4, Part B of the Agreement will be amended as follows:

4. Alliance Responsibilities.

B. The Alliance shall pay the City for all costs to complete the Project, including contingency costs, ~~equal to 10% of the Construction Contract,~~ that are in excess of the ~~\$590,000~~ \$657,631 managed by the City. Project costs ~~and contingency costs~~ in excess of ~~\$590,000~~ \$657,631 shall be paid to the City prior to the start of construction. The Alliance shall promptly pay the City for additional costs associated with change orders under the Construction Contract in an amount not to exceed a total project contribution of ~~\$300,000~~ \$350,000. Funds paid by the Alliance to the City in excess of final payments made under the Construction Contract shall be refunded to the Alliance.

III. This First Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in “portable document format” (“pdf”), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

IV. Except as specifically amended pursuant to this First Amendment, the Agreement remains in full force and effect. In the event of a conflict between the provisions of this First Amendment and the provisions of the Funding Agreement, the provisions of this First Amendment shall govern.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as indicated on the following page.

CITY OF DULUTH

By: _____
Roger J. Reinert, Mayor

Dated: _____

Attest: _____
Ian B. Johnson, City Clerk

Dated: _____

Countersigned:

Josh Bailey, City Auditor

Approved as to form:

Jessica Fralich, City Attorney

GND DEVELOPMENT ALLIANCE

By: _____
Mark Boben, GND Development
Alliance

Dated: _____