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**Title:** RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH HARTLEY NATURE CENTER CORPORATION FOR EXPANSION OF THE BUILDING LEASED BY THE CORPORATION AND IMPROVEMENT OF PARK AMENITIES.

**Sponsors:**

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**Attachments:** 1. Exhibit 1\_First Amendment to Development Agreement.pdf

Date	Ver.	Action By	Action	Result
6/21/2021	1	City Council	adopted	

RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH HARTLEY NATURE CENTER CORPORATION FOR EXPANSION OF THE BUILDING LEASED BY THE CORPORATION AND IMPROVEMENT OF PARK AMENITIES.

**CITY PROPOSAL:**

WHEREAS, Hartley Nature Center Corporation (the "Corporation") leases and manages an existing building located within Hartley Park that it wishes to expand and improve so that it can provide more and better programming and recreational opportunities to the public;

WHEREAS, the city owns and manages the surrounding Hartley Park and desires to improve outdoor facilities for parking, pedestrian access, and stormwater management there;

WHEREAS, the city was awarded a \$1,293,975 grant from the Minnesota Parks and Trails Legacy Grants Program (the "Grant") authorized under Resolution No. 18-0567. \$1,000,000 of the grant is allocated to the building expansion (the "Building Project"). \$293,975 was allocated to improvement of outdoor facilities in Hartley Park ("Park Improvements");

WHEREAS, the Corporation and City entered into a Development Agreement on December 20, 2019, which agreement was authorized under Resolution No. 19-0874 (the "Development Agreement"). The Development Agreement outlined the goals for the Project and each party's roles and responsibilities.

WHEREAS, at the time the Development Agreement was signed, complete construction plans and costs were not yet available and the "Park Improvements" were expected to be designed and constructed separately from the "Building Project;"

WHEREAS, the city and the Corporation chose to combine design and construction contracts for the "Building Project" and the "Park Improvements" because the projects are physically integrated and combined contracts significantly reduce costs on both projects;

WHEREAS, the Corporation and City desire to amend the Development Agreement now that anticipated costs are known and "Park Improvements" have been incorporated.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to the development agreement, substantially the same as the agreement attached as Exhibit 1, with Hartley Nature Center Corporation; funds received from the Corporation shall be deposited into Fund 205-130-1220-4220-01 (Parks Fund, Community Resources, Parks Capital, State of Minnesota Capital, Project: CM205-HARTLE-LGCY18).

STATEMENT OF PURPOSE: This resolution authorizes a first amendment to the development agreement with Hartley Nature Center Corporation (the "Corporation") to formalize the respective responsibilities of the City and the Corporation to improve and expand the City-owned building leased by the Corporation and improve the surrounding City-managed park.

The building houses a variety of short - one hour to one week - programs for all ages as well as a nature-based preschool. The building also serves as a de facto visitor center for Hartley Park with restrooms, rental equipment, and visitor information. Over time, dramatic sustained growth in Corporation program participation and park visitation has made it impossible to accommodate public demand for all three functions of the existing building. The building project will enable the Corporation to provide more and better outdoor recreation and environmental education opportunities to the audiences for all three functions.

The building project will include two new classrooms, a second set of restrooms, a parent/family gathering area, an expanded office, and a public meeting room for organizational partners and the broader community.

The park improvements include:

- Construction of approximately 1000 feet of new sidewalk from Woodland Avenue to parking, trailheads, and the building
- ADA accessibility improvements
- Roadside overflow parking along the entry road
- Amendments to inadequate stormwater management along the entry road
- Fabrication and installation of complete wayfinding signage throughout the park.

The building project is funded through \$1 million dollars from the Minnesota Parks and Trails Legacy Grants Program, \$1,197,947 from the Corporation, and \$53,644 from the City of Duluth Parks Fund.

The park improvements are funded through \$293,975 from the Minnesota Parks and Trails Legacy Grants Program and \$346,356 from the City of Duluth Parks Fund.

The City's financial obligations under the first amendment to the development agreement will be paid through: (i) the agreement with LHB, Inc. authorized under Resolution No. 20-0209 and (ii) the award of the construction contract, which is proposed to be approved under Resolution No. 21-0438. A third construction contract for wayfinding signage is outside the scope of the development agreement but part of the larger grant-funded project.

The Corporation will be solely responsible for overages from the Gardner Builders construction contract up to 4% of the contractor's guaranteed maximum price. The parties will evenly split overages from the construction contract more than 4% in excess of the contractor's guaranteed maximum price. The parties will also evenly split any and all overages from a design contract with LHB, Inc. The City will further support the entire project by overseeing all aspects of construction including design development, permitting, construction documents, and project management services.