

MANAGEMENT AGREEMENT
BETWEEN
THE CITY OF SAINT PAUL
AND
SAINT PAUL URBAN TENNIS

This Agreement, entered into this ____ day of March, 2017, by and between the City of Saint Paul, Minnesota, a municipal corporation organized and existing under the laws of the State of Minnesota, ("City"), and Saint Paul Urban Tennis, a 501(c)(3) non-profit corporation ("SPUT").

WHEREAS, the City is the owner of Eastview Recreation Center, ("Eastview") located at, Saint Paul, MN 55104, and would like to have a non-profit recreational organization program and manage the space; and

WHEREAS, -SPUT is able to facilitate youth and adult programming in the recreation center building and grounds; and

WHEREAS, both parties wish to enter into an agreement for the management of programming for the spaces at Eastview which will provide benefits to the community in the form of continued recreational opportunities.

Now, therefore, parties agree as follows:

1. **Term.** The term of this Agreement shall be for a period of five (5) years, beginning upon the date of execution of this Agreement and ending on the date five (5) years thereafter, unless earlier terminated pursuant to paragraph 10 of this Agreement. In the event that SPUT is successful in raising money to add additional tennis courts as provided in Paragraph 7(B), the intent is to allow SPUT to extend this Agreement for an additional five (5) year term.
2. **Use of Site.**
 - A. SPUT shall staff, program and manage the Eastview recreation building and grounds during the term of this Agreement, and shall manage the staff and programs it provides at the facility. Public use of the building in the form of access to meeting rooms and recreation center restrooms will be maintained. Fees charged for use of the premises shall be consistent with the fees charged by the Department of Parks and Recreation. SPUT shall be entitled to the fees generated as compensation for the administration of reservations.
 - B. SPUT shall post its hours of operation on the building.

3. **Payment.**

- A. SPUT shall be responsible for the payment of all utilities at Eastview starting as of September 1, 2017. SPUT must contact the utilities to ensure direct billing, and arrange for the change in billing effective September 1, 2017.
- B. SPUT shall, at the beginning of each year of the term, provide \$5,000 to be placed in an account with the City which will be used for routine repairs and maintenance (including, but not limited to, annual fire extinguisher testing, emergency lights testing, fire sprinkler inspection, fire alarm inspection and monitoring costs for fire) to the recreation center building. Routine repairs and maintenance are defined as those repairs or maintenance required to bring the premises back to its regular condition or to keep it operating at its present condition. The intent of this subparagraph (B) is that the account balance remain at \$5,000 at the start of every term year. For example, if SPUT pays \$5,000 at the initial term and there is \$1,500 of maintenance occurred during the first year, SPUT would need to pay in \$1,500 at the start of the second year term to bring the account balance to \$5,000. Upon request, the City shall provide SPUT with an itemized statement showing how the maintenance funds were used. At the expiration of this Agreement, all unused funds in the account shall be returned to SPUT.
- C. SPUT currently has a balance of funds earmarked for maintenance and repairs for the Griggs Recreation Center. The sums in that account may be transferred to satisfy SPUT's payment obligation stated in Paragraph 3(B).

4. **Maintenance and Repair.**

- A. SPUT shall be responsible for all interior maintenance, housekeeping, and minor repairs for the building at its own cost. A list of maintenance responsibilities is attached as Exhibit A. If SPUT fails to maintain or repair the premises, City may elect to perform such maintenance and repair and bill SPUT for the costs.
- B. Any damages caused by the action of SPUT, its employees, agents, or invitees will be the sole responsibility of SPUT to pay for.
- C. The cost for repairs or replacements not covered in 4.A or 4.B will be distributed as follows:
 - 1) SPUT will be responsible for the cost of all repairs or replacements up to a total of \$5,000 annually. Payment will be made from the initial \$5,000 account established for that purpose as provided in Paragraph 3(B).
 - 2) The City will be responsible for repair or replacements costs once the \$5,000 threshold has been met.
 - 3) The City will conduct routine boiler inspections and perform required maintenance on the boiler at the Eastview Recreation Center. Repair costs for the boiler will be included in the costs to be shared as outlined above.
- D) SPUT shall be responsible for putting trash in the dumpster provided by the City.
- E) SPUT must arrange for recycling at its own expense. SPUT must perform daily litter pickup on the grounds.

- F) All of the detached furniture and equipment owned by the City shall remain the property of the City although it may be used by SPUT during the term of this agreement. SPUT shall not be required to replace any item listed in the exhibit unless the damage requiring replacement is due to the negligence of SPUT. SPUT understands that the City is not obligated to replace these items should they fail to be in operating condition, and will only do so at its own discretion.
- G) The City will perform all grounds maintenance around the building. City will resurface the existing tennis courts as scheduled in the existing maintenance plan by the end of 2018. The City will maintain the building and grounds in good condition, including all tennis courts, to the standard of all other Saint Paul recreation facilities.
- H) The City will be responsible for all snow and ice removal on steps, walkways and parking lots when the snow accumulation is more than two (2) inches. Snow and ice removal is the responsibility of SPUT if the accumulation is less than two (2) inches. SPUT shall be responsible for clearing and shoveling the walk from the building's front door to the main sidewalk at the parking lot curb regardless of the amount of snowfall.

5. **SPUT Responsibilities.**

- A. SPUT is responsible for scheduling the interior space located at Eastview for both its own programs and use by outside groups. When the space has been made available for use by the public, it is the responsibility of SPUT to have staff onsite to open the building, prepare the space, and do any necessary clean up afterwards. The facility may only be used during regular park hours.
- B. SPUT may enter into lease agreements with other non-profit entities or individuals to provide recreation programming, or other programs which serve a public purpose. City reserves the right to approve such agreements in advance.
- C. SPUT shall complete electronic participant accident and incident report forms in any instance where accidents or incidents on or near the facility are reported to or witnessed by SPUT representatives. Completed reports must be provided to the City within two working (2) days following an accident or incident on or near the facility property, by U.S. mail, fax or a PDF scan attached to an email.
- D. SPUT shall develop and maintain up-to-date, facility specific, Emergency Action Plans (EAP) and Safety Data Sheets (SDS), which must be updated annually, and must be consistent with the City's plans. SPUT must train facility staff and volunteers on use of the EAP and SDS at least once a year.
- E. SPUT must ensure that the recreation center, or a portion thereof, is open and properly staffed when site is designated as a public polling site. Use for this purpose will be free of charge. City staff will be responsible for opening and closing the building.
- F. At least monthly, SPUT shall provide the City with notification of all scheduled facility rentals and events use. At a minimum, notifications shall include the name of the group

or individual responsible for the rental or event name, contact information, the date and time of the rental, and any additional services which might be required. If additional services such as garbage collection are required due to the event, SPUT will be responsible for the cost of such services.

6. **City Responsibilities.**

- A. Prior to the move-in date, City shall thorough clean and repair the Eastview building, and will conduct an initial review of the facility to determine whether there are any building, fire, safety or health code violations.
- B. By September 1st, Urban Tennis will make a decision regarding air conditioning the entire building. ~~If Urban Tennis elects to install central air, the city will provide the appropriate ductwork and SPUT will pay up to \$20,000 towards this improvement.~~ If Urban Tennis elects not to air condition entire building, City will air condition two rooms at its own expense. If Urban Tennis elects to install central air, the city will purchase and install all necessary ductwork, cooling/condensing units, and all other component items for the central HVAC system and SPUT will pay up to \$20,000 towards this improvement.
- C. The City will conduct an energy audit at Eastview and work with SPUT to develop ways to lower energy consumption throughout the building.
- D. Parks and Recreation's Safety Office will conduct annual Safety and Security inspections of the facility and will notify SPUT of any deficiencies, which SPUT shall remedy in a timely manner.
- E. Parks and Recreation and SPUT will conduct a management agreement compliance assessment and site review annually. Any issues must be promptly remedied by SPUT.
- F. City will be responsible for providing quarterly reports to SPUT on the balance of the Maintenance Fund established under Paragraph 3C.
- G. City shall be responsible for programming at and staffing Eastview for 12 hours per week. Six of the hours will be on Saturday and the remaining hours will be on weeknights.
- H. The City will provide and service one or more portable restrooms for placement on the exterior of the facility.
- I. The City will be responsible for ensuring that the physical aspects of the Premises are in compliance with applicable law, including but not limited to the Americans with Disabilities Act.

7. **Alterations.**

- A. SPUT will not make any alterations to the grounds or premises without the written consent of the City. If SPUT desires to make any such alterations, an accurate description of the project shall first be submitted to the City in writing and such alterations shall be done at the expense of SPUT. All such work shall be done under the City's supervision and any improvements will become the property of the CITY at the end of the agreement term. SPUT agrees that any alterations must be done in a workmanlike manner and in conformance with all applicable law, regulations and

building codes; that the structural integrity of any and all building systems will not be impaired and that no liens will be attached to the premises by reason thereof.

B. Parties have agreed that during the term of this Agreement SPUT will work to raise money for installation of approximately 6 (six) additional tennis courts within Eastview Park. The estimated cost of the project exceeds \$200,000. SPUT may use its own contractor for the improvement of the Premises, subject to receiving the City's written consent for the project consistent with Paragraph 7(A) and ensuring its contractor complies with prevailing wages, vendor outreach and posts payment and performance bonds. In the event that funds are raised for installation of courts, the Parties agree to negotiate in good faith an amendment to this Management Agreement which will set forth the responsibilities of the parties with respect to design, construction, and maintenance of the courts, as well as an extension of the term of this Management Agreement.

C. The City shall allow SPUT to fundraise for the improvements to the Premises by providing naming rights for the improvements, including but not limited to the courts and tennis complex. All signage in connection with such naming must be approved by the City. Eastview Recreation Center may only be renamed with the consent of the City Council and any such naming must be consistent with the Department of Parks and Recreation's naming policy. SPUT may engage in corollary fundraising efforts for the Premises, including but not limited to the potential addition of a "buy a brick" campaign where donors would have their names engraved in bricks (e.g., for a walkway, patio, etc.).

8. **Notices.** The City's representative for this agreement will be the Recreation Services Manager or his/her designee. The SPUT representative for the purposes of this agreement will be the Executive Director or his/her designee. Any notices or correspondence on this agreement shall be sent to:

Saint Paul Parks and Recreation
400 City Hall Annex
25 W 4th Street
Saint Paul, MN 55102
Attn: Recreation Services Manager

SPUT
Becky Cantellano
Executive Director
1188 Hubbard Ave.
Saint Paul, MN 55104

All notices shall be deemed to have been given when served personally on City or SPUT or by certified mail, return receipt requested, addressed to Saint Paul Parks and Recreation or to SPUT at the above address.

9. **Indemnification.** SPUT agrees to defend and indemnify the City and all its agents, officers and employees thereof from all claims, demands, actions, judgments, suits or causes of action of

any nature or character, arising out of SPUT's use of the premises, except to the extent such claims are due to the CITY's negligence. SPUT shall provide the CITY with notice of any injuries, claims, or suits submitted to them, within thirty (30) days of receipt of such notice, claim, or suit.

10. Insurance.

A. The City will insure the recreation center building for fire and comprehensive property damage coverage. SPUT will provide the following insurance during the term of the agreement:

- 1) SPUT shall be responsible for the self-insurance of, or for the acquisition of Commercial Property insurance on its own personal property and the property of anyone using the facility.
- a) Comprehensive general liability insurance including blanket contractual liability coverage and personal injury liability coverage with a combined single limit of not less than \$1,500,000 per occurrence, or \$2,000,000 per occurrence shall be purchased by SPUT. Such insurance must: i) name the City of Saint Paul as "additional insured"; ii) be primary with respect to the City's liability insurance or self-insurance; and iii) not exclude explosion, collapse, or underground property damage.
- b) Worker's Compensation insurance with not less than the statutory minimum limits, and employer's liability insurance with minimum limits of at least \$100,000 per accident.
- c) SPUT shall supply to the City current insurance certificates for policies required in this agreement. The certificates shall certify whether or not SPUT has errors and omissions insurance coverage.
- d) Nothing in this agreement shall constitute a waiver by the CITY of any statutory limits or immunities.
- e) Waiver of Subrogation. The City waives its right of subrogation for damage to the premises, contents therein, loss of income, up to the amount of insurance proceeds collected. SPUT waives its right of subrogation for damage to the premises, contents therein, loss of income, up to the amount of respective insurance proceeds collected. The parties shall notify their respective insurance companies, in writing, of the provisions of this paragraph, and if either cannot waive its subrogation rights, shall immediately notify the other party, in writing.

11. Non Discrimination. SPUT will not discriminate against any participant or employee wishing to participate in its programs or any person wishing to use the recreation center or its fields because of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that participants are treated without the same during their participation in programs or use of the facility.

12. Right of Entry. At all times during the term of this agreement, the City retains ownership of the premises and shall have the right, by itself, its agents and employees, to enter into and upon the Premises during reasonable business hours or, in the event of an emergency, at any time for any legitimate purpose.

13. **Termination.**

- A. Parties may mutually agree to terminate this Agreement at any time.
- B. If a party is claiming a material breach by the other party it may elect to terminate this Agreement by providing notice of such intent to terminate to the other party, stating the basis for the breach, and a reasonable amount of time for the party to cure. Failure to cure within the stated time will result in termination the day following the final cure date.
- C. Any of the following listed events will be considered a material breach by SPUT for the purposes of termination:
 - i. Failure to maintain non-profit status. In the event that SPUT fails to maintain its status as a non-profit organization or no longer offers recreational programming.
 - ii. Failure to pay utilities. In the event that SPUT fails to pay utility bills and such failure results in heat, electricity, or gas being shut off.
 - iii. Lapse in insurance. In the event SPUT fails to continuously maintain proper insurance as required by the Agreement and the lapse continues for a period of five days after receipt of written notice of such failure.
 - iv. Breach without cure. SPUT breaches any obligation under this Agreement and such breach continues for a period of 30 days or more after receipt of written notice of such breach.
 - v. Persistent or repeated breaches. SPUT has a pattern of persistent and repeated breaches, whether or not such breaches have been cured. Breaches do not need to be of the same contract requirement in each case to establish a pattern of persistent and repeated breaches.
 - vi. Bankruptcy. In the event that SPUT files a voluntary petition in bankruptcy, insolvency or a petition for reorganization, or a receiver is appointed for a substantial portion of Manager's property, or an order or decree of bankruptcy, insolvency, or reorganization is issued.
- D. It will be considered a material breach for the purposes of termination if the City repeatedly fails to perform its obligations under the Agreement,

At the termination of this agreement the premises shall be surrendered peacefully and returned to the CITY in the same condition as received, reasonable wear and tear notwithstanding.

14. **Amendments.** No amendments to this Agreement shall be effective without being reduced to writing and executed by both parties.

15. **Assignment.** This Agreement may not be assigned without the written consent of the other party, and any attempt to assign without such approval will render the Agreement void.

16. **Waiver.** Any fault of a party to assert any right under this Agreement shall not constitute a waiver or a termination of that right, this Agreement, or any of this Agreement's provisions.

17. **Entire Agreement.** It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

18. **Jurisdiction.** This agreement shall be construed under the laws of the State of Minnesota and any dispute regarding the interpretation or enforcement shall be venued in the Ramsey County District Court.

IN WITNESS WHEREOF, the parties have set their hands the date first written above.

CITY OF SAINT PAUL

SPUT

Director of Parks and Recreation



Executive Director

Director of Financial Services



Board Chair 3-16-17

Assistant City Attorney

RESOLUTION # 17-02

Management Agreement with Saint Paul Urban Tennis for the Eastview Recreation Center

WHEREAS, the City is the owner of Eastview Recreation Center, ("Eastview") located at, 1675 5th St E, St Paul, MN 55106, and would like to have a non-profit recreational organization program and manage the space; and

WHEREAS, Saint Paul Urban Tennis, a 501(c)(3) non-profit corporation ("SPUT") has partnered with the City of Saint Paul, Department of Parks and Recreation since 1991 to provide tennis and educational programming for underserved youth in St. Paul, and is able to facilitate youth and adult programming in the recreation center building and grounds; and

WHEREAS, both parties wish to enter into an agreement for the management of programming for the spaces at Eastview which will provide benefits to the community in the form of continued recreational opportunities;

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Parks and Recreation Commission recommends that the City Council of the City of Saint Paul authorize the appropriate City officials to enter into the attached Management Agreement

Adopted by the Saint Paul Parks and Recreation Commission on March 9, 2017:

Approved:

Yeas

6

Nays

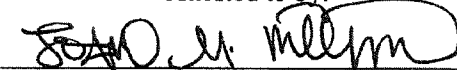
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Absent:

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Resolution #17-02

Attested to by:



Staff to the Parks and Recreation Commission