

RESOLUTION # 14-07
Frogtown Gardens Lease Agreement

WHEREAS, the Saint Paul Parks and Recreation Commission is an appointed body established to advise the Mayor and City Council on long-range and city-wide matters related to Parks and Recreation; and

WHEREAS, Frogtown Gardens is a nonprofit organization dedicated to making the Frogtown neighborhood healthier and greener; and

WHEREAS, since 2009, Frogtown Gardens has been working to create an urban agriculture demonstration site within the Frogtown neighborhood; and

WHEREAS, the City purchased 12.7 acres of land from the Trust for Public Land with the intention that five of those acres would be leased to Frogtown Gardens which will develop the site as an urban farm with the remainder being used for traditional park purposes; and

WHEREAS, the development of the site as an urban farm was the intended use of the property when purchased and does not create a precedent for the purposes of Chapter 13 of the City Charter when determining park purposes; and

WHEREAS, pursuant to a previously approved Development Agreement the parties have negotiated a Lease Agreement which describes the site development that needs to occur and delineates operations, revenue sharing, ordinary maintenance and capital maintenance, as well as outlining the uses allowed; and

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Parks and Recreation Commission supports entering into the Lease Agreement with Frogtown Gardens.

Adopted by the Saint Paul Parks and Recreation Commission on February 12, 2014:

Approved:	Yeas	—
	Nays	—
	Absent:	—

Resolution #14-07

Attested to by:

Staff to the Parks and Recreation Commission

Resolution # 14-07
Frogtown Gardens Lease Agreement

PROJECT DESCRIPTION:

The Department of Parks and Recreation is proposing to enter into a Lease Agreement with Frogtown Gardens to lease five acres of the 12.7 acres now known as Frogtown Park and Farm. The plan for this site is to create the Farm area of the Frogtown Park and Farm Park. The Department of Parks and Recreation System Plan demonstrates a need for additional gardens close to where people live. The interest in locally grown food, community gardens, and urban agriculture has increased across the country in the last five to ten years. Accordingly, there has been an increased demand from the broader Saint Paul community for community garden spaces and ever increasing requests for opportunities to harvest food on park land. There are ten community gardens on park property currently, five which are programmed through recreation centers, and five that are typical plot gardens. Of the 12.7 acre proposed site, five acres would be dedicated to urban agriculture. This proposed lease would provide Frogtown Gardens (a Non-profit 501(c)3 organization) the space to create the Farm.

Frogtown Gardens is a non-profit group whose mission is to create a healthier, greener Frogtown. At the heart of their vision is the Frogtown Park and Farm, where they foresee a demonstration site for urban agriculture. This lease will give them the space to develop the urban agriculture space.

The Department of Parks and Recreation wants to enter into a Lease Agreement with Frogtown Gardens so that the demonstration site for urban agriculture can become a reality. The Lease Agreement delineates the operations, revenue sharing, ordinary and capital maintenance, and details of the uses allowed between the two parties in order for the Department of Parks and Recreation to enter into a lease agreement with Frogtown Gardens;

STAFF COMMENTS:

The Department of Parks and Recreation has determined it is within the good of the public to enter into this Lease Agreement with Frogtown Gardens to ensure a successful partnership and project at Frogtown Park and Farm.

REQUEST OF THE COMMISSION:

Recommend the adoption of Resolution # 14-07 in support of the Lease Agreement between the Department of Parks and Recreation and Frogtown Gardens.

COMMUNITY CONCERNS:

The lease agreement with Frogtown Gardens is a direct result of community interest and a grass roots effort to increase green space and develop urban farming within the neighborhood. There are concerns coming from the community regarding the pursuit of a lease with Frogtown Gardens without having completed a Request for Proposal.



LEASE AGREEMENT

THIS LEASE AGREEMENT (the “*Lease*”) is entered into this _____ day of _____, 2014, between the **City of Saint Paul**, through its Department of Parks and Recreation (the “*City*”) and **Frogtown Gardens**, a Minnesota not-for-profit corporation and 501(3)(c) organization, doing business as Frogtown Farm, whose address is 941 Lafond, Suite 200, Saint Paul, MN 55104 (“*Frogtown*”).

Recitals:

- A. The City owns a 12.7 acre of property legally described as on **Exhibit A** and generally bounded by Victoria Street, Lafond Avenue, Chatsworth Street, and Minnehaha Avenue, in the City of Saint Paul, Minnesota (the “*Park Property*”). The Property was purchased with the intent to develop the Park Property as a public park and to lease approximately five (5) acres of the larger parcel to Frogtown, including access rights thereto, all as depicted on the sketch attached hereto as **Exhibit B** (the “*Leased Premises*”) for development as an urban farm, and Frogtown desires to accept such leasehold, as set forth below.
- B. The lease of the five acres to Frogtown is not intended to be treated as a diversion of parkland under the City Charter or Administrative Code, nor is it intended as a determination that an urban farm is a “park purpose”.

AGREEMENT

Now, therefore, parties agree as follows:

1. **Leased Premises.** The City, in consideration of the payment of rent and the covenants and agreements herein contained, leases to Frogtown the Leased Premises.
2. **Term of Lease.**
 - a. **Initial Term.** The term of this Lease shall begin on the date on which the City tenders possession of the Leased Premises to Frogtown, with all City Improvements (as defined herein) substantially completed (the “*Commencement Date*”), and continuing for an Initial Term of ending on the December 31st following the eighth anniversary of the Commencement Date (the “*Initial Term*”). Parties will document the actual Commencement date through written correspondence.
 - b. **Renewal Terms.** Parties may mutually agree to renew this Lease for two (2) successive seven (7) year terms. Frogtown must make a written request for the renewal by no later than September 30th of the last year of the Initial or first Renewal Term. The City may refuse to agree to an extension if: 1) there have been repeated violations of the terms of the Lease which affected the City’s operation of the adjacent parkland; 2) the City Council has determined that the

operation of an urban farm is no longer the best use of the property; or 3) parties are unable to reach agreement on the amount of rent prior to the expiration of the Initial or first Renewal Term.

- c. **Amortization of Building Costs.** If the City does not renew this Lease and the basis for renewal is not default on the part of Frogtown or unreasonable failure to reach agreement on the amount of rent for either the first or second renewal term, City agrees that it will be responsible for reimbursement to Frogtown for the value of the remaining useful life of any building constructed by Frogtown on the Leased Premises which the City has determined at the time of construction would be a benefit to the City. In no event will the City be required to reimburse Frogtown if the failure to renew is due to Frogtown’s own actions, nor will the City be required to reimburse under this section if City money was used in the construction of the building.
3. **Use of Premises.** Frogtown shall use and occupy the Leased Premises for the establishment and operation of an urban farm (the “***Approved Use***”), which may include without limitation (i) educational purposes, including classes and workshops; (ii) production of fresh local produce (including fruits, vegetables flowers, herbs or decorative foliage) for sale to or sharing with the public; (iii) production and sale of food products principally produced from items listed in (ii) above; (iv) demonstration of growing and cultivating gardens and (v) other activities as are normally considered complementary to and suitable for an urban farm and not inconsistent the City’s use of the remainder of the Park Property as a city park. Notwithstanding the foregoing, Frogtown will not keep any animals or insects except in accordance with law and with the prior written consent of the City. Frogtown agrees that it will not produce illegal substances or noxious weeds. The City represents and warrants that the Approved Use is an acceptable use under the City zoning code.
 4. **Rent.** Frogtown will pay rent during the Term of this Lease as stated below (the “***Rent***”). The parties hereto agree that the Rent shall be payable annually, and shall be paid on February 15th of each year, based on the net income of Frogtown’s operation on the Leased Premises for the prior calendar year.

Due Date	Covering income for the period	Amount Due
The first February 15th during the Term	The Commencement Date through December 31 of the year in which the Commencement Date occurs	\$0.00
The second February 15th during the Term	The first full calendar year during the Term	\$0.00

Due Date	Covering income for the period	Amount Due
The third February 15th and each February 15th thereafter during Years 2 through 5 of the Term,	The immediately preceding calendar year	8% of Gross Earned Income for Frogtown arising from its operations on the Leased Premises.
The third February 15th and each February 15th thereafter during Years 6 and 7 of the Term	The immediately preceding calendar year	10% of Gross Earned Income for Frogtown arising from its operations on the Leased Premises.

Gross Income, as used herein, means all revenues generated by Frogtown from the Leased Premises through sales of produce, fees for classes, workshops and services, or other income derived from the Approved Use. Rent shall be made payable and sent to:

Department of Parks and Recreation,
25 West 4th Street, Suite 400
Saint Paul, Minnesota 55102

5. **City Improvements.** Prior to the Commencement Date, the City shall complete the improvements (the “*City Improvements*”), at City expense, in accordance with the plans and specifications set forth in **Exhibit C** attached hereto. Within thirty (30) days following the Commencement Date of this Lease, Frogtown shall inspect the Leased Premises to determine the Leased Premises are in the condition required by this Lease. The City represents and warrants to Frogtown that, as of the Commencement Date, the City Improvements will be substantially completed and in good working order and condition, and that the City has received no recommendations or information that any portion of the City Improvements will require replacement or capital improvements in the next thirty six (36) months. The City estimates that the City Improvements will be completed and delivery of the Leased Premises to Frogtown will occur on September 1, 2014. If it is determined that construction work for both City and Tenant improvements can occur simultaneously, the commencement date may be amended.
6. **Tenant Improvements.** Frogtown will be responsible for all Tenant Improvements as set forth in **Exhibit D** attached hereto (the “*Tenant Improvements*”), Frogtown agrees that any material change to the Tenant Improvements shall be approved by the City, which approval shall not be unreasonably withheld, delayed, or conditioned. Frogtown will request City approval for any such change, which request will include an accurate description and plans. All Tenant Improvements shall be done at Frogtown’s own expense. In the event that the City desires to oversee any of the Tenant Improvements, such oversight shall be at the City’s sole cost and expense and shall not interfere with Frogtown’s work on the Improvements. All Tenant Improvements which constitute fixture to real property, but excluding all personalty and trade fixtures, shall become the property of the City. All Tenant Improvements shall be completed in conformance with applicable building codes, and all Frogtown contractors will be licensed, bonded, and

insured as required by law. Any damage to City improvements made during the course of the tenant's improvements shall be the responsibility of the tenant.

Any construction of buildings pursuant to this Lease will require a separate written agreement between the parties.

Tenant has the right to install such fences on the Leased Premises as it deems suitable and necessary for its operation provided only that they meet all city ordinance requirements.

7. **Condition of Leased Premises.** The City warrants to Frogtown that, as of the Commencement Date, the Leased Premises are in compliance with applicable laws, ordinances, regulations, rules, and other governmental requirements in effect with respect to the Leased Premises. The City leases the premises to Frogtown "as is" and does not warrant that the soil is adequate other than for passive park use.
8. **Environmental Issues.** Frogtown agrees as follows:
 - i. No activity shall be conducted on the Leased Premises that will produce any Hazardous Substance, except for such activities that are an ordinary part of the Approved Use, provided that the Approved Use is conducted in accordance with all Environmental Laws.
 - ii. The Leased Premises will not be used in any manner for the storage of any Hazardous Substances except for the storage of such materials that are used in the ordinary course of the Approved Use. "***Hazardous Substance***" means: (A) any "hazardous substance" as defined in CERCLA, 42 U.S.C. § 9601(14); (B) any "pollutant or contaminant" as defined in CERCLA, 42 U.S.C. § 9601(33); (C) any "hazardous waste" as defined in RCRA, 42 U.S.C. § 6903(5); (D) any asbestos, dioxins, polychlorinated biphenyls that exceed regulated levels, uranium, radioactive isotopes and other nuclear by-products, toxic substances or petroleum products, by-products or derivatives; (E) any substance, whether liquid, solid or gas that presents a significant risk of an adverse or harmful effect upon human health, upon animals or upon air, water, land, natural resources or any other aspects of the environment; and (F) any other substance, material or waste classified as hazardous, toxic, harmful or dangerous or as a pollutant or contaminant under any Environmental Law.
 - iii. Frogtown agrees to comply with all ordinances, laws, rules, and regulations enacted by any governmental body or agency relating to Frogtown's operations on the Leased Premises and the control, abatement or emission of air and water contaminants and the disposal of refuse, solid wastes or liquid wastes related thereto. Frogtown shall bear all costs and expenses arising from compliance with said ordinances, laws, rules, or regulations which arise as a result of Frogtown's operations and shall defend and hold harmless City from all liability, including without limitation, fines, forfeitures, and penalties arising from the failure by Frogtown to comply with such ordinances, laws, rules, or regulations. City has the right to perform cleanup and charge Frogtown for such costs should Frogtown fail to comply.

9. **Taxes.** Parties agree that Frogtown shall be responsible for 39% of any special assessments as a pro-rated share of the entire parcel. City shall be responsible for the remaining 61%. In the event the activities of Frogtown alter the tax-exempt status of the property, Frogtown will be responsible for payment of any such taxes.
10. **Right of Entry.** At all times during the term of this Lease, City shall have the right, by itself, its agents and employees, to enter into and upon the Leased Premises during reasonable business hours with reasonable advance notice or, in the event of an emergency, at any time for any legitimate purpose.
11. **Insurance.** Frogtown shall acquire during the term of this lease the following coverage. Frogtown may, but shall not be required to, obtain property insurance for its personal property or trade fixtures.
- i. Commercial General Liability Insurance, including blanket contractual liability coverage, personal injury liability coverage and broad form property damage liability endorsement with a combined single limit of not less than \$1,500,000 per occurrence, \$3,000,000 aggregate. Such insurance shall: (a) name the City of Saint Paul as additional insured; (b) be primary with respect to City's insurance or self-insurance; (c) not exclude explosion, collapse and underground property damage; (d) be written on an "Occurrence Form" policy basis; and (e) not contain an "aggregate" policy limit unless specifically approved in writing by City.
 - ii. Automobile Liability Insurance with minimum limits of \$1,000,000 combined single limit and \$2,000,000 aggregate, covering hired, non-owned and owned automobiles.
 - iii. Worker's Compensation Insurance with not less than statutory minimum limits; and Employer's Liability Insurance, with minimum limits of at least \$100,000 per accident and with an all states endorsement.
 - iv. Frogtown shall supply to the City current insurance certificates for policies required, which certificates shall certify whether or not the agent has errors and omissions insurance coverage.
 - v. Nothing in this contract shall constitute a waiver by City of any statutory limits or exceptions on liability.
 - vi. Frogtown shall place the insurance with responsible insurance companies authorized and licensed to do business in the State of Minnesota and reasonably approved by City, and shall deliver copies of the policies to City upon execution of this Lease.
12. **Waiver of Subrogation.** The City and Frogtown will each be responsible for insuring the buildings and contents that they own. Frogtown is also responsible for insuring any contents that are on the acreage that they lease from the City and shall be responsible for any claims from negligence, in any shape or fashion, that is made on the acreage leased from the City.

Notwithstanding the foregoing, City and Frogtown hereby release each other from any and all liability or responsibility to other (or to anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property caused by fire or any of the extended coverage or supplementary insurance contract casualties, even if such fire or other such casualty shall have been caused by the fault or negligence of the party or anyone for whom such party may be responsible; provided, however, that this release shall apply only to loss or damage occurring during such time as the releasing party's insurance policies shall not contain a clause or endorsement to the effect that any such release shall not adversely affect or impair or prejudice the right of the releasing party to recover thereunder.

13. **Signs.** Frogtown's Approved Use shall be identified on the City signage fronting Minnehaha Avenue and Victoria and Milton Streets. In addition, Frogtown may install, in its sole discretion, educational and identifying signage throughout the Leased Premises, in its sole discretion.
14. **Condemnation.** Eminent domain proceedings resulting in condemnation of only a part of the Leased Premises (while leaving a part of the Leased Premises usable by Frogtown for the purpose of its Business) will not terminate this Lease; provided, however, that if more than 25% of the Leased Premises are condemned, then Frogtown may terminate this Lease by giving written notice of termination to the City within thirty (30) days of the notice of such condemnation. If the option to terminate this Lease is not exercised then a condemnation will operate to terminate this Lease as to the portion of the Leased Premises condemned. The City shall, at its expense, make reasonable efforts to restore the remaining portion of the Park Property and the Leased Premises to the extent necessary to render the Leased Premises reasonably suitable for the purposes of this Lease.
15. **Delayed Performance.** In the event that Frogtown shall be delayed or hindered in the performance of any act required hereunder by reason of force majeure events, such as strikes, blackouts, labor disputes, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, Act of God, or other reason of a like nature beyond the control of either party, then performance of any such act shall be excused for the period of the unavoidable delay and the period for the performance of any such act shall be extended for an equivalent period.
16. **Notices.** The City's representative for this agreement will be Tom Russell, Parks and Recreation's Manager of Finance and Planning or his/her designee. Frogtown's representative for the purposes of this agreement will be Frogtown Farm Executive Director or Chair of Board until Executive Director appointed. All notices herein provided to be given, or that may be given by either party to the other, shall be deemed to have been fully given when served personally on City or Frogtown, or when made in writing and deposited in the United States Mail, certified and postage prepaid, and addressed to FROGTOWN at the address stated on Page 1 and to the City at Department of Parks and Recreation, 25 W. 4th St., Room 400, Saint Paul, Minnesota, 55102. The

address to which the notice shall be mailed may be changed by written notice given by either party to the other. Nothing herein shall preclude the giving of such address change notice by personal service.

17. **Assignment and Subletting.** Frogtown shall not assign or sublet this Lease without the written consent of the City, which consent must be obtained prior to the execution of any agreement to sublease the Leased Premises. Leasing of individual farm plots does not constitute assignment or subleasing as used in this section.

18. **Maintenance and Repairs.**

- i. **City's Responsibilities.** Following completion of the City Improvements, and throughout the Term, the City shall be responsible for the continuing maintenance and repair of the City Improvements and the Common Improvements (as defined below), including all emergency repairs. Correction of all defects or maintenance required on the City Improvements, regardless of whether they benefit only the Leased Premises (e.g., the irrigation system) during the first three years following the Commencement Date shall be completed by the City. For the entire Term, the City will be responsible for maintenance of those improvements which benefit both the Leased Premises and the remainder of the Park Property. "Common Improvements" as referred to herein, means all improvements which are shared by the Park Property and the Leased Premises, including without limitation, the trails and access or other roads, lighting, walking paths, whether or not paved, play equipment, and park amenities such as benches, tables, bike racks, and trash receptacles. Notwithstanding the foregoing, Frogtown shall be responsible for reimbursing the City for any repairs to City and Common improvements which are caused by Frogtown's activities on the Park Property. This includes damages caused by the agents, employees, or invitees of Frogtown.
- ii. **Frogtown's Responsibilities.** Except as set forth above, Frogtown shall, at its own cost and expense, be responsible for all repairs, maintenance and upkeep of the Leased Premises, including but not limited to emergency repairs; routine maintenance and repair to keep the Leased Premises and Tenant Improvements in good repair, safe and in compliance with applicable fire, health, building and other life-safety codes, normal wear and tear and casualty loss excepted. In the event that Frogtown fails to maintain the Leased Premises, the City may notify Frogtown of its intention to perform the repairs or maintenance and charge the costs back to Frogtown. For any non-safety related repairs, the City must give Frogtown thirty (30) days to make the repair. If the item is a safety hazard and Frogtown fails to promptly make the required repairs, the City may make the repairs within such time as it deems necessary to protect the public from harm.
- iii. City is responsible for any damages caused to the Leased Premises by the City, its agents, employees, or invitees.

19. **Events of Default; Termination.**

- a. Frogtown Default. The occurrence of the following should constitute a default by the Frogtown under this Lease and Frogtown shall have thirty days following the receipt of written notice from the City of the exact nature of the default to cure, or will be in breach of this lease:
1. Failure to maintain non-profit status.
 2. Failure to raise 100% of the first year's anticipated expenses by December, 2014.
 3. Failure to comply with any obligations of Frogtown under the terms of this Lease.
- b. Termination. In the event of breach of this agreement, the non-breaching party may terminate this agreement by giving written notice of default to the other party, provided, however, that the party receiving the notice shall have thirty (30) days in which to cure such default, or if such default is not capable of cure within said 30 days, such time as is reasonably needed to cure such default so long as the cure is commenced within the 30 day period and the party is diligently pursuing the cure, in which case this agreement shall not be terminated. Any notice of default and include a statement of the basis for believing the other party to be in default and the steps needed to cure such default.
- c. Mediation. Before exercising any termination options above, parties agree to attempt to engage in cooperative attempts to resolve the dispute, in accordance with the process listed below:

The aggrieved party will summarize the issue or issues in dispute in written form, and the project managers or designees from each side will meet promptly to discuss and attempt to resolve the disagreement.

If agreement cannot be reached the Parks Director and FTF Executive Director or their designees will promptly meet and attempt to resolve the dispute.

If parties cannot agree to resolve the dispute, each side agrees to submit to one mediation session of no more than four hours in length. Parties shall mutually agree to a neutral third party to mediate the session, and expenses will be shared equally by the parties.

If either party reasonably believes that the first two steps will not result in a resolution of the dispute parties may elect to go immediately to a third party mediator.

- d. 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.

20. **Record Keeping.** Frogtown must keep and submit records pertaining to the Leased Premises operations such as: 1) annual reports on the farm including information on the number of classes and workshops provided and gross annual revenue and expenses, 2) accident and incident reports (which should be submitted within a reasonable time following the accident or incident); 3) books and records relating to the income and expenses of the Leased Premises. All business records shall be kept in such a manner as will readily conform to the terms of this Agreement and to make such materials available at its office at all reasonable times during this Agreement period and for six (6) years from the date of the final payment under the contract for audit or inspection by the City, the Auditor of the State of Minnesota, or other duly authorized representative.
21. **Publicity.** Frogtown will provide to City copies of all flyers and programs published for the purpose of publicizing an event or program, that are sent to the community at time of distribution.
22. **Reviews.** The City and Frogtown shall meet to review Frogtown's programs and services at a minimum of once per year. Parties will develop a list of metrics to be used to evaluate the performance of Frogtown.
23. **Surrender of Premises.** Frogtown, at the expiration of the Term, or any sooner termination of this Lease, shall quit peacefully and surrender possession of said property and its Tenant Improvements (excluding trade fixtures and personalty) to City in its then-as is, where is condition, subject to ordinary wear and tear and casualty loss.
24. **Indemnity.** Frogtown agrees to defend and indemnify the City and any agents, officers and employees thereof from all claims, demands, actions or causes of action of whatsoever nature or character, arising out of Frogtown's operations on the Leased Premises, except to the extent such claims arise out of the failure by City to maintain Improvements in accordance with Paragraph 18. Except as otherwise set forth herein, it is fully understood and agreed that Frogtown is aware of the conditions of the Leased Premises and leases the same "as is."
25. **Holdover.** Any holdover after the expiration of the Term shall be allowed only after receiving the written consent of City. Said tenancy shall be deemed to be a tenancy only from month-to-month. All other terms and conditions of this Lease shall be applicable.
26. **Severability.** If any paragraph or provision of this Lease shall be in violation or contravention of any law, ordinance, or administrative regulation, the provision shall be null and void and this Lease shall be construed as though such provision was never included in this Lease.
27. **Time of the Essence.** Time is of the essence of each and every provision of this Lease.
28. **Quiet Enjoyment.** If and so long as Frogtown pays the Rent and other amounts due under this Lease and performs and observes all of the covenants and provisions hereof Frogtown shall quietly enjoy the Leased Premises, subject, however, to the terms of this

Lease.

29. **Attorneys' Fees.** In any action brought to enforce the terms of this Lease, the substantially prevailing party shall be entitled to recover the costs of enforcement, including reasonable attorneys' fees, from the substantially non-prevailing party.
30. **Recording.** The City will cooperate with Frogtown to execute a recordable Memorandum of Lease if Frogtown desires to confirm the existence of this Lease by recording with the Ramsey County Recorder or Registrar or Titles.
31. **Compliance with Laws.** The property described herein may be used for only the Approved Use. Except as otherwise set forth herein, it is the sole and exclusive responsibility of Frogtown to comply with all laws, rules, regulations, or ordinances relating to the Leased Premises imposed by any jurisdiction affecting the use of the Leased Premises. Inability or failure by Frogtown to comply with any of said laws, rules, regulations, or ordinances will not relieve it of the obligation to pay the rent required herein.
32. **Non-Discrimination.** Frogtown for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that
 - a. no person, on the ground of race, sex, color, creed, religion, age, disability, marital status, familial status, status with respect to public assistance, national origin, sexual or affectional orientation or ancestry shall be excluded from participating in, be denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises;
 - b. in connection with the construction of any improvements on the Leased Premises and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors;
 - c. Frogtown shall use the premises in compliance with all other requirements imposed pursuant to the Saint Paul Legislative Code Chapter 183.
33. **Liens.** Frogtown shall not permit mechanic's liens or other liens to be filed or established or to remain against the Leased Premises for labor, materials or services furnished in connection with any additions, modifications, improvements, repairs, renewals or replacements made to the Leased Premises, or for any other reason; provided that if Frogtown notifies City of its intention to do so it may deposit in escrow with City a sum of money or a bond or irrevocable letter of credit acceptable to City equal to the amount of the claim of lien, Frogtown may in good faith contest any such claims or mechanic's or other liens filed or established and in such event may permit the items contested to remain undischarged and unsatisfied during the period of such contest. If, in the opinion

of City, the nonpayment of any such items subjects the Leased Premises to any loss or forfeiture, City may require Frogtown to use the escrow account to promptly pay all such unpaid items.

34. **Amended**. Anything herein contained to the contrary notwithstanding, this Lease may be terminated, and the provisions of this Lease may be, in writing, amended by mutual consent of the parties hereto.

35. **Interpretation of Agreement, Venue**. This Lease Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation related to this Agreement shall be venued in the District Court of the County of Ramsey, Second Judicial District, State of Minnesota.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year in this Lease first above-written.

City of Saint Paul:

Frogtown Gardens:

Director of Parks & Recreation

By: _____

Director of Finance

Its: _____

City Clerk

Approved as to form:

EXHIBIT A
PARK PROPERTY LEGAL DESCRIPTION

Real property in Ramsey County, Minnesota legally described as follows:

PARCEL 1:

Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 35, Township 29, Range 23, Ramsey County, Minnesota, except that part for Victoria Avenue within the said Parcel.

Abstract Property

PARCEL 2:

Lots 1, 2, and 3, Victoria and Lafond St. Add., except the South Half thereof, that part of the South Half of adjoining Blair Street, vacated lying between the extensions across it of the East Line of said Lot 1 and the West line of said Lot 3; Lots 4,5,6,7,8, and 9, Victoria and Lafond St. Add., except the Southerly 10 feet thereof; that part of the South Half of adjoining Blair Street, vacated lying between the extensions across it of the East Line of said Lot 4 and the West line of said Lot 9, Ramsey County, Minnesota.

Torrens Property

PARCEL 3:

Those parts of the East Half of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$) and the West Half of the Northeast Quarter of the northeast Quarter of the Northwest Quarter (W $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$), Section 35, Township 29 North, Range 23 West, Ramsey County, Minnesota, lying North of the North line of vacated Blair Avenue as opened by Order of the Common Council dated August 23, 1884, except that part for Minnehaha Avenue within the said Parcel.

Abstract Property

EXHIBIT B
SKETCH OF FROGTOWN GARDENS LEASED PREMISES

DRAFT

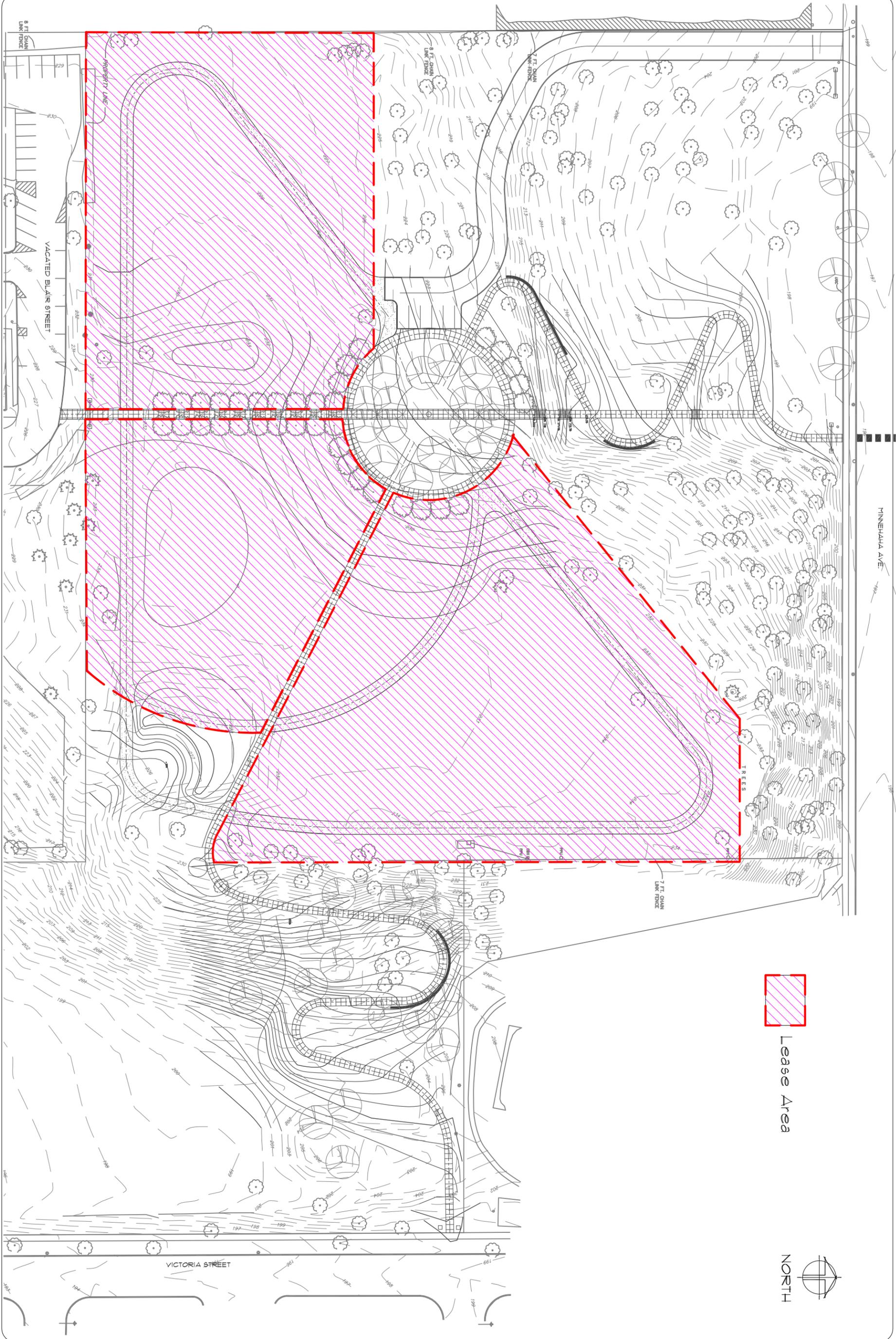


EXHIBIT C
CITY IMPROVEMENTS AT FROGTOWN PARK AND FARM
FEBRUARY 5, 2014

1. Entrance Road and parking lot: as shown in the master plan
2. Perimeter fencing: as of the date of this exhibit, no fencing needs have been identified.
3. Utility Infrastructure: Since there is no building construction during this first phase of implementation, we will be pulling sanitary and electricity stub-outs from either Minnehaha or Milton to the centralized building area located on the master plan. Water utility will also be centrally located for irrigation. Electricity will also be provided for lighting.
4. Stormwater Infrastructure: We will take care of this as part of the entrance road and parking lot construction. The amount of impervious surface is minimal and most of this may be handled on-site via pervious pavement, raingardens, or constructed bio-infiltration swales.
5. Lighting: we will be lighting the main north/south path from Milton to Minnehaha and the parking lot. Optional: if budget allows to light the walk from Victoria to Minnehaha.
6. Irrigation: we will need an irrigation plan from Rebar. Again, we will be pulling water supply to a centralized location for present needs and future expansion.
7. Basic Park Amenities: as covered in the master plan includes the following:
 - a. Picnic tables
 - b. Benches
 - c. Trash receptacles
 - d. Central courtyard space
 - e. Landscaping around courtyard: shade trees, turf
 - f. Native vegetation on sledding hill, additional shade trees throughout park.
 - g. Signage: entrance signage, interpretive signage, Gateway entrances.
 - h. Public Art: as a portion of a park amenity or other design element.
 - i. Temporary toilet facilities

EXHIBIT D
TENANT IMPROVEMENTS

- A. Soil development and preparation
- B. Preparation and delineation of farm plots
- C. Planting and maintenance of orchard
- D. Construction or purchase ancillary farm building(s)

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EXHIBIT E
SHARED SIGNAGE