



Title:	Authorization to Issue Notice of Termination of the 325 Blake Road Real Estate Purchase Agreement
Resolution number:	25-019
Prepared by:	Michael Hayman, Project Planning Manager Phone: (952) 471-8226 mhayman@minnehahacreek.org
Reviewed by:	Gabriel Sherman, Planner-Project Manager; MCWD legal counsel
Recommended action:	The Board of Managers authorizes the Administrator to issue a notice of cancellation of the 325 Blake Road purchase and sale agreement with Alatus Development, LLC, thus initiating the 30-day cure period to formally close on the 325 Blake Road site in Hopkins, MN.
Schedule:	March 2025: Issue notice of termination April 2025: Developer cure period to resolve contract Spring-Summer 2025: Contingency planning for initiating construction of the regional stormwater and Minnehaha Greenway expansion project
Budget considerations:	Not applicable
Past Board action:	Res # 20-066 Authorization to Execute a Cooperative Agreement with the City of Hopkins for Coordinated Planning, Improvements and Development for 325 Blake Road Res # 20-067 Authorization to Release the Request for Proposals for Design Services for 325 Blake Road Stormwater Management and Site Restoration Res # 20-091 Authorization to Contract for Design Services for the 325 Blake Road Regional Stormwater and Greenway Project Res # 20-098 Positive Determination of the Feasibility Milestone and Authorization to Solicit Interest in Potential Redevelopment of the 325 Blake Road Site Res # 21-015 Confirmation of Select Developer List for Engagement in the 325 Blake Road Restoration and Redevelopment Project Res # 21-047 Affirming Developer Selection and Agreement Framework for 325 Blake Road Res # 21-074 Approval of the Preliminary Development Agreement for 325 Blake Road and Approval of Alatus Development's Concept Plan for Public Realm Improvements and Connection to MCWD's Regional Stormwater Project Res # 22-023 Approval of the 325 Blake Road Purchase and Sale Agreement Res # 22-040 Approval of the First Amendment to the 325 Blake Road Purchase and Sale Agreement Res # 23-026 Approval of Final Design for the 325 Blake Road Regional Stormwater and Greenway Project

- Res # 23-066 Approval of the Second Amendment to the 325 Blake Road Purchase and Sale Agreement
- Res # 24-037 Approval of the Third Amendment to the 325 Blake Road Purchase and Sale Agreement

Summary:

On June 17, 2021, the Minnehaha Creek Watershed District (MCWD) and City of Hopkins (City) hosted a joint meeting of the MCWD Board of Managers and Hopkins City Council to conduct interviews of the developer finalists for the 325 Blake Road Restoration and Redevelopment project. Following interviews, the joint MCWD Board and City Council agreed to mutual considerations to facilitate the selection of Alatus Development, LLC (Alatus) as the preferred master development partner for the 325 Blake Road site (collectively, the “Partners”). The following commitments were key considerations in the developer selection process and are essential terms included in the preliminary development agreement (PDA) and purchase and sale agreement (PSA):

1. the purchase price in the Alatus proposal of \$11.25M over two phases (\$8M and \$3.25M) is firmly understood as the sale price of the land, and that the City Council does not support the developer using the purchase price as a subsidy to close any potential gap if financial concerns arise;
2. the City will not look to the MCWD to assume any further financial risk, and the City will accept the risk associated with any potential project financial gap using tax increment finance, grants, and other subsidy mechanisms to deliver the project vision set forth in the Alatus proposal;
3. the operation and maintenance responsibilities for the site overall will be a shared responsibility for the City, developer, and MCWD, with MCWD’s responsibility focused on its remaining parcel and water management features; and
4. the Joint Liaisons Group will remain engaged in this process to assure mutually successful completion of this process and project delivery.

Using these considerations as foundational elements, the PDA for the 325 Blake Road site was approved on November 4, 2021. The PDA outlined the Partners’ respective expectations, rights, and obligations regarding the 325 Blake Road site and provided a framework for further coordination as a final development plan and planned unit development (PUD) submittals were developed. Beyond memorializing the key considerations and providing exclusive rights to Alatus for the negotiation of the PSA, the PDA acknowledges the importance of the public realm to MCWD and requires approval of the final plans for public realm improvements and connection to MCWD’s regional system. Specifically, the final plans may not diminish the benefits realized in the concept plan submitted by Alatus.

Following approval of the PDA, on December 21, 2021, the City approved the Plat, Alatus’ request to re-zone the entire parcel as a planned unit development (PUD), and a “Master Development Plan” for the entire parcel with a new mixed-use, transit-oriented development on the site. The approved Master Development Plan contains approximately 800 multi-family units, with 688 units of apartments, 112 senior cooperative units, 33 for sale town homes, 8,000 square feet of ground floor retail space, and 9,000 square feet of standalone restaurant space, as well as amenities and improvements for public access and use.

On April 14, 2022, MCWD approved the 325 Blake Road real estate PSA with Alatus, and the document was subsequently executed with an effective date of May 9, 2022. At the time of execution, based on the status of design efforts, due diligence efforts and land use approvals, Alatus anticipated requesting the Phase 1 closing occur in summer or fall 2022. In accordance with the PSA, the Phase 2 closing was required to occur before December 31, 2024.

Shortly after execution of the PSA, on May 19, 2022, MCWD received a request from Alatus to modify the agreed upon two-phase takedown of the redevelopment property to close first on a single parcel of the property to facilitate Alatus’ financing and construction of 116 units of affordable housing in “Building A” of the Master Development Plan. To support this request and the City’s desire to deliver a key housing component to its residents, on June 9, 2022, MCWD accepted Alatus’ proposal to amend the PSA.

On October 26, 2023, as the expiration of the PSA approached, MCWD accepted Alatus' proposal for a second amendment to the PSA. The amendment provided a six-month extension to March 31, 2024, to facilitate Alatus' efforts to secure funding for other components of the approved Master Development Plan.

Subsequently, on March 31, 2024, Alatus waived its right to terminate the PSA, thereby indicating its plan to proceed with the next closing of a portion of the redevelopment property within 90-days. Furthermore, the PSA required certain other documents and deliverables to be finalized before such closing, and Alatus did not, and has not yet, timely performed its obligations to provide such documents and deliverables in accordance with the PSA, even after notice and opportunity to correct from MCWD.

On June 27, 2024, having received no communication from Alatus with regard to its intent to proceed with the next closing of a portion of the redevelopment property by the June 30, 2024 deadline, and to avoid termination due to expiration of the PSA, the MCWD Board of Managers unilaterally offered a 120-day closing extension, at no cost to Alatus, and directed staff to convene the City and Alatus to discuss the status of the project and explain that no further extensions would be granted unless MCWD's fully funded regional stormwater and restoration project was allowed to advance in a timely manner.

On November 1, 2024, Alatus defaulted on its 120-day extension. Subsequently, on November 5, 2024, MCWD sent a default letter to Alatus detailing the performance issues and previously agreed upon terms to secure an amendment to the PSA. Despite numerous meetings and discussions between Alatus, the City and MCWD, Alatus has not produced definitive evidence of project financing or otherwise met the conditions of the PSA extensions which would allow MCWD's fully funded regional stormwater and restoration project to proceed.

It is important to note that, since May 2023, MCWD has had an approved final design for the 325 Blake Road Regional Stormwater and Greenway Project and has remained steadfast in communicating its priority to move the public improvement project forward, in consideration of outside funding timelines and the critical nature of the regional stormwater facility to improving downstream Minnehaha Creek and impaired Lake Hiawatha. Nearly two years since approval of design and funding, development of the redevelopment portion of the Site has not advanced and there remains no viable pathway forward for commencing construction in 2025, thus placing at risk MCWD's ability to construct its improvements in a timely manner with outside funding sources.

On March 13, 2025, the Board of Managers held a closed session for the purpose of discussing the potential expiration or revision of terms of the PSA and noted for the record that given the amount of time that the developer has been out of compliance with the terms of the PSA, and that MCWD has a fully designed and funded water resource project that can no longer reasonably be delayed to fulfill the MCWD's mission, the Board directed staff to prepare a notice of termination of the PSA for the Board's consideration at its regularly scheduled meeting of March 27, 2025, and further has directed staff to take additional action as discussed in closed session.



RESOLUTION

Resolution number: 25-019

Title: Authorization to Issue Notice of Termination of the 325 Blake Road Real Estate Purchase Agreement

- WHEREAS the Minnehaha Creek Watershed District (MCWD) acquired 325 Blake Road in Hopkins, Minnesota (the “Site”) in 2011 as a key piece of the Minnehaha Creek Greenway, which will provide 109 acres of a connected corridor of restored creek and habitat through St. Louis Park and Hopkins;
- WHEREAS the MCWD, the City of Hopkins (the “City”), and other public partners have made substantial investments in the preparation and planning of the Site to date; the driving vision of the project is to create a uniquely water-centric redevelopment of a formerly industrialized segment of the Minnehaha Creek corridor, provide layered ecological and societal benefits and be the centerpiece of the larger Minnehaha Creek Greenway restoration;
- WHEREAS in 2020, the MCWD and the City entered into a cooperative agreement to guide the coordinated planning, improvements and redevelopment of the Site, focusing on approximately 12 acres for transformation into a mixed-use, transit-oriented neighborhood and MCWD retaining ownership of approximately five acres to treat polluted stormwater that flows into the creek from approximately 270 acres of surrounding area and to restore more than 1,000 feet of creek frontage;
- WHEREAS MCWD has combined its project design for stormwater management and creek restoration on the Site with three accompanying parcels bordering the creek for the 325 Blake Road Regional Stormwater and Greenway and Cottageville Park Phase II Riparian Restoration Project; this project includes the construction of stormwater facilities, open space amenities, stream and riparian restoration and a trail network;
- WHEREAS pursuant to the cooperative agreement, MCWD and the City requested proposals from developers for the redevelopment of the approximately 12-acre portion of the Site for the mixed-use, transit-oriented neighborhood, received proposals, and selected Alatus Development, LLC (“Alatus”), Wellington Management (“Wellington”), and Sherman Associates as finalists to present their proposals at a joint meeting of the MCWD Board of Managers (the “Board”) and City Council;
- WHEREAS on June 17, 2021, a joint meeting of the Board and City Council was held and the Board and City Council discussed mutual considerations and key commitments by MCWD and the City and jointly selected Alatus as the first-choice developer and Wellington as the second choice developer;
- WHEREAS on July 8, 2021, by resolution of the Board, MCWD affirmed MCWD’s and the City’s joint selection of Alatus as the first-choice developer and Wellington as the second choice developer, and memorialized the key commitments by the City that were critical considerations in these selections and therefore were essential terms to be included in the preliminary development agreement (PDA) to be entered in to by MCWD, the City, and Alatus and a purchase and sale agreement to be entered into between MCWD and Alatus (the “Purchase Agreement”) for the portion of the Site intended to be redeveloped with the mixed-use, transit-oriented neighborhood (the “Redevelopment Property”);
- WHEREAS following the joint selection of Alatus by the Board and City Council, MCWD, the City, and Alatus developed the PDA to outline the Partners’ respective expectations, rights, and obligations regarding the

Site and to provide for further coordination as a final development plan and planned unit development (PUD) submittal were developed; in particular, the parties' desire to coordinate closely on the final development plan pertaining to the design, location, layout and maintenance of the stormwater-related improvements and amenities designed for the treatment of stormwater located on the Site, their connections to and integration with MCWD's regional stormwater and greenway project, and other open areas on the Site that are preserved for recreation and enjoyment by the general public (collectively the "Public Realm");

WHEREAS on November 4, 2021, the Board approved the PDA and approved the concept design of the Public Realm and its connection to MCWD's regional project as submitted in Alatus' PUD application to the City;

WHEREAS on December 21, 2021, the City approved the Plat, Alatus' request to re-zone the entire Site as a PUD, and a "Master Development Plan" for the entire Site with a new mixed-use, transit-oriented development on the Site; the approved Master Development Plan contains approximately 800 multi-family units, with 688 units of apartments, 112 senior cooperative units, 33 for sale town homes, 8,000 square feet of ground floor retail space, and 9,000 square feet of standalone restaurant space, as well as amenities and improvements for public access and use;

WHEREAS on April 14, 2022, the Board approved the final Purchase Agreement, which was executed with an effective date of May 9, 2022;

WHEREAS on May 19, 2022, MCWD received a request from Alatus to modify the agreed upon two-phase takedown of the Redevelopment Property to close first on a single parcel of the Redevelopment Property to facilitate Alatus' financing and construction of 116 units of affordable housing in "Building A" of the Master Development Plan;

WHEREAS on June 9, 2022, subject to certain terms and conditions negotiated by MCWD and Alatus, the Board accepted Alatus' proposal to amend the Purchase Agreement to facilitate Alatus' closing on a single parcel of the Redevelopment Property to facilitate Alatus' financing and construction of the "Building A" affordable housing project;

WHEREAS on October 26, 2023, subject to certain terms and conditions negotiated by MCWD and Alatus, the Board accepted Alatus' proposal for a second amendment to the Purchase Agreement to provide Alatus an additional six-months to facilitate Alatus' efforts to secure funding for other components of the approved Master Development Plan;

WHEREAS on March 31, 2024, Alatus waived its right to terminate the Purchase Agreement, thereby indicating its plan to proceed with the next closing of a portion of the Redevelopment Property within 90-days; furthermore, the Purchase Agreement required certain other documents and deliverables to be finalized before such closing, and Alatus did not, and has not yet, timely performed its obligations to provide such documents and deliverables in accordance with the Purchase Agreement, even after notice and opportunity to correct from MCWD;

WHEREAS on June 27, 2024, having received no communication from Alatus with regard to its intent to proceed with the next closing of a portion of the Redevelopment Property by the June 30, 2024 deadline, and to avoid termination due to expiration of the Purchase Agreement, the Board unilaterally offered Alatus a 120-day closing extension, at no cost to Alatus, and directed staff to convene the City and Alatus to discuss the status of the project and explain that no further extensions would be granted unless MCWD's fully funded regional stormwater and restoration project was advanced in a timely manner;

WHEREAS on November 1, 2024, Alatus defaulted on its 120-day closing extension provided by MCWD;

WHEREAS on November 5, 2024, MCWD sent a default letter to Alatus detailing the performance issues and previously agreed upon terms to secure an amendment to the Purchase Agreement; despite numerous meetings and discussions with Alatus, the City of Hopkins and MCWD, Alatus has not produced definitive evidence of project financing or otherwise met the conditions of the Purchase Agreement extensions which would allow MCWD's fully funded regional stormwater and restoration project to proceed;

WHEREAS since May 11, 2023, via resolution 23-026, the Board has had an approved final design for the 325 Blake Road Regional Stormwater and Greenway Project and has remained steadfast in communicating its priority to move the public improvement project forward, in consideration of outside funding timelines and the critical nature of the regional stormwater facility to improving downstream Minnehaha Creek and impaired Lake Hiawatha; nearly two years since approval of design and funding, development of the Redevelopment Property of the Site has not advanced and there remains no viable pathway forward for commencing construction in 2025, thus placing at risk MCWD's ability to construct its improvements in a timely manner with outside funding sources;

WHEREAS on March 13, 2025, the Board held a closed session for the purpose of discussing the potential expiration or revision of terms of the Purchase Agreement and noted for the record that given the amount of time that the developer has been out of compliance with the terms of the Purchase Agreement, and that MCWD has a fully designed and funded water resource project that can no longer reasonably be delayed to fulfill the MCWD's mission, the Board directed staff to prepare a notice of termination of the Purchase Agreement for the Board's consideration at its regularly scheduled meeting of March 27, 2025, and further has directed staff to take additional action as discussed in closed session;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby direct the Administrator, on advice of legal counsel, to issue a notice of termination for the 325 Blake Road Real Estate Purchase Agreement to Alatus;

Resolution Number 25-019 was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: 3/27/2025

Secretary Date: March 27, 2025