

SUBJECT

BOARD RESOLUTION NO. 18-1910

Pertaining to a License Agreement with Vinco, Inc. and JHS LLC to enable Vinco, Inc. to occupy property owned by JHS LLC as a location for a temporary tower used for relocation of telecom equipment during reconditioning of the Board's Marie Ave elevated water tower in West St. Paul.

BACKGROUND INFORMATION

This License Agreement will enable Vinco, Inc. to continue to occupy property owned by JHS LLC for a temporary tower used for the relocation of telecom equipment that had been installed on the Board's Marie Ave water tower at a cost of \$2,000 per month. The License Agreement commences on November 16, 2018 and terminates on the date in which the reconditioning and repainting of the tower is complete.

Due to the failure of the reconditioning contractor (Osseo Construction Co., LLC) to complete the project within their contractually obligated timeline, the temporary tower will be needed longer than originally anticipated. Vinco currently has a lease to occupy JHS property until November 15, 2018. Save for the failure of the reconditioning contractor, the term of this lease would have been sufficient to enable Vinco to vacate the premises before termination.

The Board leases to the City of West St. Paul the ability to sublease exterior space on the tower to telecom companies. This lease is a condition of the Omnibus Agreement between the Board and the City dated April 1, 2001. The terms of the lease require that the City be responsible for all costs related to the relocation of this equipment during reconditioning of the tower. However, the City has no recourse in recouping these costs from the defaulting party causing the burden. The Board has that ability through its contract with Osseo Construction. Therefore, staff recommends that the Board enter into this License Agreement and pay the rent required for the continued use of the property.

As per the tower reconditioning contract with Osseo Construction Co., LLC, liquidated damages in the amount of \$900 per calendar day started accruing as of September 28, 2018. These funds will be used to reimburse the Board for the costs of this Agreement.

See attached License Agreement.

RECOMMENDATION

Board approval is recommended.