

**CITY OF SAINT PAUL PUBLIC WATER ACCESS
DOCK OPERATIONS AND MAINTENANCE COOPERATIVE AGREEMENT
BETWEEN
THE STATE OF MINNESOTA AND THE CITY OF SAINT PAUL**

This Agreement, between the State of Minnesota, acting by and through the Commissioner of the Department of Natural Resources, hereinafter referred to as the "State" and the City of Saint Paul hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the Commissioner of Natural Resources has the authority, duty, and responsibility under Minnesota Statutes Section 97A.141 to provide public access sites on lakes and rivers where access is inadequate; and

WHEREAS, the State and the City are authorized under Minnesota Statutes Section 471.59 to enter into agreements to jointly or cooperatively exercise common powers; and

WHEREAS, the City and the State have determined that adding a dock to the public water access is an improvement to Lake Phalen and is of high priority under the state public water access program; and

WHEREAS, the City owns land described as: Section 21, Township 29N, Range 22W, Ramsey County, which is attached and incorporated into this agreement as **Exhibit A**; and

WHEREAS, the State is willing to provide a dock to the City; and

WHEREAS, the City will operate and maintain the dock located on Lake Phalen, hereinafter referred to as the "dock" or the "facilities"; and

WHEREAS, a resolution or copy of the City council/board meeting minutes authorizing the City to enter into this agreement is attached and incorporated into this agreement as **Exhibit B**; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the public bodies hereto and for the benefit of the general public, the parties agree as follows:

I. STATE'S DUTIES AND RESPONSIBILITIES

- a. The State shall provide the dock, either from current inventory or through the standard internal purchasing process including, but not limited to, a separate requisition in which funds will be encumbered.
- b. The State shall provide technical expertise for the installation and removal of the dock to and from the lake.
- c. The State shall retain ownership of the dock and retains the authority to relocate and/or remove the dock if the Site is determined to be inadequate or if the City fails to comply with the terms of the Agreement. Before such removal or relocation, the State shall consult with the City.
- d. The State shall assist the City with major structural repairs subject to the availability of funding according to the provisions of Article III.
- e. The State reserves the right to inspect the premises at all times to insure that the City is in compliance with the terms of this Agreement.

II. CITY'S DUTIES AND RESPONSIBILITIES

- a. The City will ensure the approach/path connecting the gangway and dock to shore meets or exceeds ADA requirements of a 5% gradient and 2% cross slope. The approach will be completed within one year of the effective date of this agreement.
- b. The City shall be responsible for installing the dock in the spring after ice off when it is safe to do so. The city will maintain the dock at the proper water depth, making adjustments during the pen water season as necessary. The city shall be responsible for the removal of the dock from the water in the fall before ice forms.
- c. The City shall comply with all local, state and federal laws, regulations, rules and ordinances, which may apply to the management, operation, and maintenance of said premises.
- d. The dock is to be used primarily by boaters for the purpose of launching and retrieval of their boats, to load and unload persons or property, or tie up their boats temporarily.
- e. The City shall maintain the dock and keep it in good and safe operating condition. Additionally, the City shall provide all necessary routine maintenance and minor repairs
- f. The City shall take necessary action to protect the dock from damage caused by fluctuating water levels.
- g. The dock and related facilities shall be free and remain open every day during open water season in conjunction with the City's established hours for a facility of this type. The City may close the facility for emergencies, or for other reasons, without prior written consent of the State. The City shall notify the State within 48 hours of the closing of the facility for emergency reasons or if the facility remains closed longer than 48 hours.

III. FUNDING

The State shall provide funding for its responsibilities under Article I (a) and (d) above through the standard internal purchasing process including, but not limited to, a separate requisition in which funds will be encumbered. The total obligation of the State for the facility under Article I (a) is limited to the amount of funds legislatively appropriated and administratively allocated to this project.

IV. LIABILITY

Each party agrees that it will be responsible for its own acts and the results thereof to the extent authorized by the law and shall not be responsible for the acts of the other party and the results thereof. The State's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Section 3.736, and other applicable law. The City's liability shall be governed by Minnesota Statutes Sections 466.01-466.15, and other applicable law.

V. TERM

- a. *Effective Date: **June 1, 2018***, or the State obtains all required signatures under Minnesota Statutes Section 16C.05, Subdivision 2, whichever is later. The City shall not begin work under this Agreement until it is fully executed and the City has been notified by the State's authorized representative to begin the work.
- b. *Expiration Date: **December 31, 2028*** for a period of ten (10) years except as otherwise provided herein or agreed to in writing by both parties. This agreement can be extended with a written amendment as agreed upon and signed by both parties per article XI.

VI. AUDIT

Under Minnesota Statutes Section 16C.05, sub. 5, the books, records, documents and accounting procedures and practices of the City relevant to the agreement shall be subject to examination by the Commissioner of Natural Resources, the Legislative Auditor and the State Auditor for a minimum of six years from the end of this agreement.

VII. ANTITRUST

The City hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations that arose under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

VIII. CANCELLATION

This Agreement may be cancelled by the State at any time with cause or as necessary as provided in Article III, upon thirty (30) days written notice to the City.

This Agreement may also be cancelled by the State if it does not obtain funding from the Minnesota Legislature, or other funding sources, or if funding cannot be continued at a level sufficient to allow for services covered under this agreement. The State will notify the City by written notice. The State will not be obligated to pay for services provided after the notice is given and the effective date of cancellation. The State will not be assessed any penalty if the agreement is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate the necessary funds. The State shall provide the City notice of lack of funding within a reasonable time of the State's receiving that notice.

IX. GOVERNMENT DATA PRACTICES

The City and the State must comply with the Minnesota Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this agreement. The civil remedies of Minn. Stat. 13.08 apply to the release of the data referred to in this clause by either the City or the State.

X. PUBLICITY AND ENDORSEMENT

Any publicity regarding the subject matter of this agreement must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the City individually or jointly with others, or any subcontractors, with respect to the program and services provided from this agreement.

XI. COMPLETE AGREEMENT

This Agreement, and amendments, constitutes the entire agreement between the parties. Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

XII. OTHER TERMS AND CONDITIONS

NOTICES: Any notice, demand or communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

The State
Minnesota Department of Natural Resources
Division of Parks and Trails
1200 Warner Road
St. Paul, MN 55106

The City
City of Saint Paul
Dept. of Parks and Recreation
400 City Hall Annex
25 W. 4th Street
Saint Paul, MN 55102

IN WITNESS WHEREOF, the parties have caused the Agreement to be duly executed intending to be bound thereby.

DEPARTMENT OF NATURAL RESOURCES

CITY OF SAINT PAUL

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

DEPARTMENT OF ADMINISTRATION
Delegated to Materials Management Division

CITY OF SAINT PAUL

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

(Effective Date)

STATE ENCUMBERANCE VERIFICATION
Individual certifies that funds have been encumbered
as req. by Minn. Stat. 16A.15 and 16C.05.

Signed: April Kae

Date: 5/31/18

Contract: # 142578

No purchase order

City of St Paul – Phalen Regional Park



City of St Paul – Phalen Regional Park

