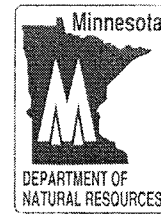


Minnesota Department of Natural Resources

Parks and Trails
1200 Warner Road
St. Paul, MN 55106
651-259-5875



June 11, 2012

City of St Paul
Karin Misiewicz
1100 Hamline Avenue North
Saint Paul, MN 55108

Dear Ms. Misiewicz,

The Department of Natural Resources (DNR) is excited to inform you of plans to replace the fishing pier on Loeb Lake. Our records show that DNR and St. Paul officials established the Loeb Lake pier on July 29, 1992 with a cooperative agreement (M-5872). The agreement allowed the state to buy and install the pier while the city installed the accessible parking and pathway, and managed the operation and maintenance.

The DNR is committed to helping the City of St. Paul continue to provide an accessible fishing pier that increases fishing opportunities especially to meet the needs of children, elderly, people with disabilities and those without a boat. Our goal is to make this transition in a manner that has minimal impact to the users. On the phone we discussed a number of items related to this transition and they are listed below:

1. The City will remove and dispose of the old pier. We can provide guidance on how to remove the pier.
2. The City will supply the necessary equipment to unload the pier when it is delivered.
3. The City will provide the appropriate number of employees to install the pier. We will provide one person and the necessary tools to guide you in the installation process.
4. We will work together to determine the best time for installation to occur. This most likely will not occur until after July 4, 2012
5. I have attached a draft of the cooperative agreement. Please review this document and let me know of any issues you see. Once I have your initial approval, we can start on the routing process for signatures. Please do NOT start gathering signature until I have sent you a final copy of the cooperative agreement.
6. We will also need a resolution or copy of the City council/board meeting minutes authorizing the City to enter into this agreement. I will not need a physical copy of this until the final agreement gets sent to the city for signatures.

The multiple benefits that the Loeb Lake pier provides to the public justify the investments that both the DNR and City are making to provide a safe and convenient place to fish for another 25 years. Please let me know if I can be of further assistance with this project. I can be reached at 651-259-5875, or you may also contact Nancy Stewart, Fishing Pier Program Coordinator, at 651-259-5616.

Sincerely,

Rachel Hintzman
PAT Area Supervisor
Division of Parks and Trails

**LOEB LAKE PUBLIC FISHING PIER
LAND USE, OPERATIONS AND MAINTENANCE COOPERATIVE AGREEMENT
BETWEEN
THE STATE OF MINNESOTA AND THE CITY OF ST. 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 St. 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 this Fishing Pier improvement on the Loeb Lake is of high priority under the state public water access program; and

WHEREAS, the City owns land described as: Section 25, Township 29N, Range 23W, Ramsey County, as shown in **Exhibit A** and on the attached map; and

WHEREAS, the State is willing to construct a Fishing Pier to Loeb Lake; and

WHEREAS, the City will operate and maintain the Fishing Pier located on Loeb Lake, hereinafter referred to as "Facilities"; and

WHEREAS, a resolution or copy of the City council/board meeting minutes authorizing the City to enter into this agreement is attached hereto 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 will encumber funds for the facility through the standard internal purchasing process including, but not limited to, a separate requisition request.
- b. The State shall provide technical expertise and equipment, when feasible, assistance with the removal of the old pier and installation of the new fishing pier. The State reserves the option to salvage and reuse sections or parts of the old pier.
- c. The State will provide and install the appropriate signage for the site, which indicates that the City and the Department of Natural Resources cooperatively provided the Fishing Pier.
- d. The State shall retain ownership of the Fishing Pier and retains the authority to relocate and/or remove the Fishing Pier 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.
- e. The State shall assist the City with major structural repairs subject to the availability of funding according to the provisions of Article III.
- f. 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 shall be responsible for the removal, demolition and disposal of the existing fishing pier and for the installation of the new Fishing Pier structure. The city shall notify the State's representative as to when this activity will take place.
- b. The City shall supply the necessary equipment to unload the Fishing Pier when it is delivered.
- c. The City will ensure that the existing concrete footing and approach connecting the gangway to shore and the accessible sidewalk/path connecting the Fishing Pier to an accessible parking space meets or exceeds the ADA requirements of a 5% gradient and 2% cross slope will be completed within one year of the effective date of this agreement.
- d. 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. The City shall obtain any permit or license which may be required for the Fishing Pier.
- e. The Fishing Pier may only be used for fishing, observation and other compatible uses.
- f. The Fishing Pier 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 Fishing Pier 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 Fishing Pier for emergency reasons or if the facility will remain closed longer than 24 hours.
- g. Free and adequate parking within the vicinity of the Site will be provided for the Fishing Pier. The closest, prudent and most feasible location should be used for the designated accessible space which meets or exceeds ADA requirements.
- h. The City shall provide police protection and patrols for the Fishing Pier in accordance with the City's established police department policies for a facility of this type.
- i. The City shall maintain the facilities and keep them in good and sanitary order in accordance with the City's established practices for maintenance of City park facilities. Additionally, the City shall provide all necessary routine maintenance and minor repairs including, but not limited to, the repair or replacement of decking and railings.
- j. The City shall take necessary action no earlier than October 15th of each year to protect the Fishing Pier from damage caused by ice action. The City shall detach the gangway from shore, lift the anchor poles and move the fishing pier to a protected bay or other area where the pier is protected from ice push damage. Additionally, the City shall return the Fishing Pier to its original location, the Site, no later than May 1st of each year.

III. FUNDING

The State shall provide funding for its responsibilities under Article I (a) and (c) 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: July 1, 2012*, 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: June 30, 2037* for a period of twenty five (25) years except as otherwise provided herein or agreed to in writing by both parties. This agreement shall renew at the end of the term for an additional five (5) year period unless a party gives three (3) months written notice to the other party to terminate the agreement. This agreement shall continue to automatically renew at the end of each five (5) year period unless the required given notice is given.

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, Area 3B Supervisor
1200 Warner Road
St. Paul, MN 55106

The City
City of St. Paul
Parks and Recreation Department
1100 Hamline Avenue North
Saint Paul, MN 55108

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

DEPARTMENT OF NATURAL RESOURCES

CITY OF ST. PAUL

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

DEPARTMENT OF ADMINISTRATION
Delegated to Materials Management Division

CITY OF ST. PAUL

By: _____

By: _____

Title: _____

Title: _____

Date: _____
(Effective Date)

Date: _____

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

Signed: _____

Date: _____

Contract: _____