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FOURTH AMENDMENT TO CONSERVATION EASEMENT

The CITY OF SAINT PAUL, a municipal corporation ("Grantor") and the STATE OF MINNESOTA, a sovereign body, ("Grantee") have entered into this Fourth Amendment to Conservation Easement described below as of the ____ day of _____, 2021.

- A. Grantor and Grantee entered into a Conservation Easement dated November 22, 2002, and recorded on November 27, 2002, as Document Number 3558591 in the Recorder's Office of Ramsey County, Minnesota, and recorded on January 3, 2003, as Document Number 1723715 in the Office of the Registrar of Titles, Ramsey County, Minnesota ("Conservation Easement"). The property protected by the Conservation Easement is described in Exhibit A to the Conservation Easement ("Protected Property").
- B. Grantor and Grantee entered into an Amendment to Conservation Easement dated February 28, 2007 and recorded on March 16, 2007, as Document Number 4015906 in the Recorder's Office of Ramsey County, Minnesota, and recorded on March 16, 2007, as Document Number 1998812 in the Office of the Registrar of Titles, Ramsey County, Minnesota ("First Amendment") to allow for additional interpretive signage due to the historic and cultural significance of the Protected Property.
- C. Grantor and Grantee entered into a second Amendment to Conservation Easement dated December 1, 2015 and recorded on March 17, 2016, as Document Number 2553701 in the Office of the Registrar of Titles, Ramsey County, Minnesota ("Second Amendment") to allow certain activities on the Protected Property related to the investigation and construction of a bicycle and pedestrian bridge.

- D. Grantor and Grantee entered into a third amendment to the Conservation Easement dated June 4, 2021, and recorded in the Recorder's Office of Ramsey County, Minnesota on June 30, 2021, as Document Number A04893099 and recorded in the Office of the Registrar of Titles, Ramsey County, Minnesota on June 30, 2021, as Document Number T02704493, to allow certain activities on the Protected Property related to the investigation of a site for the Wakan Tipi Center ("Third Amendment").
- E. The parties desire to enter into an additional Amendment to the Conservation Easement to release a portion of the Protected Property ("Fourth Amendment").
- F. Grantor and Grantee recognized the cultural significance of the Protected Property and the surrounding area and are partnering with the local community to create a long-desired community gathering place and interpretive center, and a welcoming enhancement to the property, to be called the Wakan Tipi Center ("Center") in honor of Wakan Tipi Cave, a Dakota sacred site located on the Bruce Vento Nature Sanctuary property ("Sanctuary");
- G. Grantor is proposing the development of the Center on the Protected Property. The proposed location of the Center in the northwest corner of the Protected Property is the ideal location for the Center due to practical concerns such as access, slope, proximity to floodplain, underground utilities and overhead right-of-way.
- H. Building the Center will require the Grantee to release 3.57 acres of the Protected Property from the Conservation Easement which does not allow building construction.
- I. The development of the Center is an unanticipated circumstance not specifically addressed by the Conservation Easement.
- J. The Grantee has determined that releasing the 3.57 acre parcel will not negatively impact the intended use of the remaining acreage in the Conservation Easement Area, and will enable greater public use of the Conservation Easement Area by improving access, educational opportunities and cultural recognition of the Protected Property.
- K. Grantor has determined that building the Center on the Protected Property meets regional and city park-purpose requirements and will house a variety of arts, cultural, educational and environmental programs, as well as community gatherings and events as requested by East Side and Lowertown neighborhood residents and visitors, and Dakota community members statewide.
- L. The Grantee has determined that amending the Conservation Easement to allow for the development of the Center furthers the purpose of the Conservation Easement, and does not adversely impact the conservation values protected by the Conservation Easement, affect the perpetual duration of the Conservation Easement, or affect the validity of the Conservation Easement.
- M. The Grantee has obtained the consent of the Commissioner of Management and Budget for this transaction.

N. Concurrently with the parties entering into this Amendment, the Grantor will compensate the Grantee according to the proportionate value of its Conservation Easement under General Provisions (14) of the Conservation Easement.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Exhibit A in the Conservation Easement is replaced with Exhibit 1 to this Amendment.
2. The property described in Exhibit 2 to this Amendment is released from the Conservation Easement.
3. Counterparts. The parties may sign this Amendment in counterparts, each of which constitutes an original, but all of which together constitute one instrument.
4. Electronic Signatures. The parties agree that the electronic signature of a party to this Amendment be valid as an original signature of such party and shall be effective to bind such party to this Amendment. The parties further agree that any document (including this Amendment and any attachments or exhibits to this Amendment) containing, or to which there is affixed, an electronic signature shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written when printed from electronic files. For purposes hereof, “electronic signature” also means a manually-signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Amendment.

Except as set forth herein, the Conservation Easement remains ratified and confirmed in all respects.

In witness whereof, the parties have executed this Fourth Amendment to Conservation Easement this _____ day of _____, 2021.

CITY OF SAINT PAUL

By: _____
Its: Mayor

By: _____
Its: City Clerk

By: _____
Its: Director of Financial Services

By: _____
Its: Director, Parks and Recreation

STATE OF MINNESOTA)

) ss.

COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____, _____, _____, _____, the Mayor, City Clerk, Director of Financial Services, and Director of Parks and Recreation of the City of Saint Paul, a municipal corporation under the laws of the State of Minnesota.

Notarial Stamp or Seal (or other title or rank)

Title: Notary Public

My commission
expires: _____

ACCEPTANCE

The foregoing Fourth Amendment to Conservation Easement is hereby duly accepted by the State of Minnesota, Department of Natural Resources on this ___ day of _____, 2021.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

By: _____
SUSAN E. DAMON, Assistant Director
Division of Lands and Minerals

STATE OF MINNESOTA)

) ss.

COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me by use of communication technology this ___ day of _____, 2021, by SUSAN E. DAMON, Assistant Director of the Division of Lands and Minerals, Department of Natural Resources, on behalf of the State of Minnesota, who declared she is located in St. Paul, Minnesota.

THIS INSTRUMENT WAS DRAFTED BY:

Amy Schwarz, Attorney
Department of Natural Resources
Division of Lands and Minerals
500 Lafayette Road
St. Paul, MN 55155-4045

Exhibit 1

An easement over and across those parts of the following described property:

Block 60, Lyman Dayton's Addition to the City of St. Paul, bounded as follows to wit: Commencing at a point in the easterly boundary line of said Block 60, 300 feet from the northeasterly corner of said Block 60; thence Southeasterly on said easterly boundary line of said Block 60 to a point in said easterly boundary of said Block 60 where the northerly line of land formerly owned by William Branch and Jacob H. Stewart as described in Book 103 of Deeds, page 407 of the land records of said County of Ramsey, intersects said easterly boundary line at said Block 60; thence in a westerly direction on said Northerly boundary line of said land formerly owned by said William Branch and Jacob H. Stewart to its point of intersection with the southerly boundary line of the land now or formerly owned by William Constans in said Block 60; thence in an easterly direction on the aforesaid southerly boundary line of said land, now or formerly owned by said William Constans in said Block 60 and at right angles to said easterly boundary line of said Block 60 to the point of beginning.

And

All that piece or parcel of land situated in the City of St. Paul, described as follows: Beginning at a point in the center of Essex Street, where it is intersected by the southwesterly line of Commercial Street; running thence in a southwesterly direction along the center of Essex Street, 400 feet, more or less, to its intersection with the northeasterly line of Canal Street; thence in a southeasterly direction along the northeasterly line of Canal Street, 215.93 feet, more or less, to a point on the northeasterly line of Canal Street, 125 feet northwest of the south corner of Block 52, Lyman Dayton's Addition to the City of St. Paul; thence in a northeasterly direction along a straight line commonly known as the northwesterly line of said Block 52, 420.39 feet, more or less, to a point on the southwesterly line of Commercial Street, which is the north corner of Lot 1 in said Block 52, and is 253.50 feet northwest of the east corner of said Block 52; thence in a northwesterly direction along the southwesterly line of Commercial Street 105.52 feet to the angle in Commercial Street; thence continuing along the southwesterly line of Commercial Street in a northwesterly direction 118.73 feet, more or less, to the place of beginning; said above described premises being designated on the plat of Lyman Dayton's Addition to St. Paul as "Sanford's Mill Property."

And

That other piece of land lying and being in said County of Ramsey described as follows, to wit: Commencing at a point on the southwesterly line of said Commercial Street where said line is intersected by the line dividing Lot 1, Block 52, Lyman Dayton's Addition aforesaid from Sanford's Mill Property as aforesaid; thence running along the said southwesterly line of said Commercial Street in a southeasterly direction 80 feet; thence running southwesterly on a line parallel with the southeasterly line of Sanford's Mill Property aforesaid and distant 80 feet therefrom 106 1/2 feet; thence northwesterly on a line parallel with said southwesterly line of said Commercial Street 80 feet to said southeasterly line of Sanford's Mill Property aforesaid;

thence northeasterly on the last named line 106 1/2 feet to the point of beginning; said premises being the same sometimes called and known as Lot 1, Block 52, Lyman Dayton's Addition to the City of St. Paul.

And

Lot 2, Block 52, Lyman Dayton's Addition to the City of St. Paul.

Torrens Property

And

That portion of Blocks 40, 41, 42, 43, 52, 60, 61, 65 and 66 of Lyman Dayton's Addition to the City of St. Paul, Minnesota; that portion of Ames & Hoyt's Mill property and Sanford's Mill property of Lyman Dayton's Addition; that portion of Short Street, Cherry Street, Conway Street, Commercial Street and those vacated streets being Prospect Street, Essex Street, Ames Street and Canal Street of Lyman Dayton's Addition; that portion of the Fred Althens Subdivision of Block 61 of Lyman Dayton's Addition to the City of St. Paul; that portion of Government Lot 2 of Section 5, T28N, R22W, and the SE ¼ of Section 32, T29N, R22W, 4th P.M., Ramsey County, Minnesota.

Which lie southwesterly of a line described as commencing at the Northeast corner of said Section 5: thence Southerly along the East line of Section 5 a distance of 200.0 feet to the true point of beginning of the parcel to be described; thence Northwesterly to a point on the North line of said Section 5 distant 255.0 feet Westerly of said Northeast corner of Section 5, as measured along said North line; thence continuing Northwesterly to a point on the Northwest line of said Block 65 distant 230.0 feet Southwesterly of the most Northerly corner thereof, as measured along said Northwest line; thence Northeasterly along said Northwest line of Block 65 a distance of 40.0 feet; thence Northwesterly along a straight line to the True Point of Beginning of the hereinafter described Line "A"; thence northwesterly along said Line "A" a distance of 95.4 feet; thence Northwesterly along a straight line to a point on the Northwest line of said Block 61 distant 280.6 feet Southwesterly of the most Northerly corner thereof, as measured along said Northwest line; thence Southwesterly along said Northwest line of Block 61 a distance of 73.4 feet to the most Northwesterly corner thereof; thence Southeasterly along the Southwesterly line of said Block 61 to the point of intersection with the hereinafter described Line "B"; thence Northwesterly along said Line "B" to the Southeasterly corner of Lot 16 of said Block 60 of Lyman Dayton's Addition; thence Northwesterly along the Southwest right of way line of said Commercial Street a distance of 725.02 feet to an angle point in said right of way line; thence continuing Northwesterly along said Southwest right of way line of Commercial Street a distance of 189.3 feet; thence Southwesterly, deflecting 91 degrees 38 minutes to the left, along the Southeast line of those certain premises conveyed by the Great Northern Railway Company and the Northern Pacific Railway Company to the Pintsch Compressing Company by Warranty Deed dated February 28, 1916, a distance of 161.23 feet; thence Northwesterly along the Southwest line of said premises conveyed to Pintsch Compressing Company a distance of 134.46 feet; thence Southwesterly along the Southwesterly extension of the Northwest line of said premises conveyed to Pintsch Compressing Company a distance of 17.0 feet; thence

Northwesterly along a straight line hereinafter referred to as Line "C", a distance of 594.83 feet to a point on the Southeast right of way line of East 3rd Street, as now located and constructed, distant 144.0 feet Southwesterly from the point of intersection of said Southeast right of way line of East 3rd Street and the Southwest right of way line of said Commercial Street, as measured along said Southeast right of way line of East 3rd Street and said line there terminating.

Line "A" Description

Commencing at the Southeast corner of Lot 9 of said Fred Althens Subdivision of Block 67 of Lyman Dayton's Addition to the City of St. Paul; thence Southwesterly along the South line of said Lot 9 a distance of 97.4 feet; thence Northwesterly, deflecting 72 degrees 20 minutes to the right, a distance of 80.07 feet to the True Point of Beginning of the Line "A" to be described; thence Northwesterly, deflecting 15 degrees 10 minutes to the right, a distance of 95.4 feet and there terminating.

Line "B" Description

Commencing at the most Northerly corner of said Block 65; thence Southwesterly along the Northwest line of said Block 65 a distance of 185.0 feet to the True Point of Beginning of the Line "B" described; thence Northwesterly along a straight line to the Southeasterly corner of Lot 16 of said Block 60 and there terminating.

And which lie easterly and northerly of a line described as commencing at the Northeast corner of said Section 5; thence South 0 degrees 56 minutes 19 seconds East, assumed bearing, along the East line of said Section 5, a distance of 200.00 feet; thence North 52 degrees 37 minutes 28 seconds West, a distance of 154.24 feet along a line which, if extended, would intersect the north line of said Section 5 at a point distant 255.00 feet west of said Northeast corner of Section 5; thence South 28 degrees 59 minutes 57 seconds West a distance of 95.99 feet; thence North 65 degrees 59 minutes 39 seconds West a distance of 1086.33 feet to the point of beginning of said line to be described; thence North 24 degrees 00 minutes 21 seconds East a distance of 140.00 feet; thence North 29 degrees 35 minutes 17 seconds West a distance of 125.58 feet thence North 60 degrees 41 minutes 10 seconds West a distance of 1016.31 feet; thence South 37 degrees 48 minutes 49 seconds West a distance of 117.15 feet; thence North 48 degrees 34 minutes 36 seconds West a distance of 285.19 feet; thence northwesterly a distance of 138.25 feet along a tangential curve, concave to the northeast, having a radius of 633.80 feet and a central angle of 12 degrees 29 minutes 53 seconds; thence northwesterly a distance of 132.66 feet along a compound curve, concave to the northeast, having a radius of 224.67 feet and a central angle of 33 degrees 49 minutes 54 seconds; thence northwesterly a distance of 43.83 feet along a reverse curve, concave to the southwest, having a radius of 77.59 feet and a central angle of 32 degrees 21 minutes 50 seconds; thence North 34 degrees 36 minutes 40 seconds West, tangent to last described curve, a distance of 30.53 feet to the southeast right of way line of said Kellogg Boulevard (formerly 3rd Street) as now located and constructed and said line there terminating.

Abstract Property

EXCEPT

That part of Blocks 40, 41, 42 and 43, Lyman Dayton's Addition to the City of St. Paul, according to the recorded plat thereof, Ramsey County, Minnesota, and that part of vacated Canal Street and vacated Conway Street, described as commencing at the southwest corner of the Southeast Quarter of Section 32, Township 29, Range 22, Ramsey County, Minnesota; thence on an assumed bearing of North 00 degrees 23 minutes 46 second West, along the west line of said Southeast Quarter of Section 32, a distance of 1302.18 feet to the northwesterly line of said Block 41; thence North 55 degrees 01 minute 40 seconds East along said northwesterly line of Block 41 a distance of 158.25 feet to the point of beginning of land to be described; thence continuing North 55 degrees 01 minute 40 seconds East along said northwesterly line of Block 41 and its northeasterly extension 340.00 feet to the northwesterly extension of the southwesterly line of Lot 1, Block 1, Commercial Street Addition, according to the recorded plat thereof; thence South 48 degrees 43 minutes 51 seconds East along said northwesterly extension of the southwesterly line of Lot 1 and along said southwesterly line of Lot 1 and Lot 2, a distance of 456.75 feet; thence South 53 degrees 24 minutes 19 seconds West 249.53 feet; thence North 48 degrees 43 minutes 51 seconds West 122.60 feet to the southeasterly line of vacated Conway Street; thence South 54 degrees 33 minutes 05 seconds West along the said southeasterly line of vacated Conway Street and its southwesterly extension 170.05 feet; thence North 34 degrees 58 minutes 20 seconds West 333.04 feet to the point of beginning.

Exhibit 2
Released Property

That part of Blocks 40, 41, 42 and 43, Lyman Dayton's Addition to the City of St. Paul, according to the recorded plat thereof, Ramsey County, Minnesota, and that part of vacated Canal Street and vacated Conway Street, described as commencing at the southwest corner of the Southeast Quarter of Section 32, Township 29, Range 22, Ramsey County, Minnesota; thence on an assumed bearing of North 00 degrees 23 minutes 46 second West, along the west line of said Southeast Quarter of Section 32, a distance of 1302.18 feet to the northwesterly line of said Block 41; thence North 55 degrees 01 minute 40 seconds East along said northwesterly line of Block 41 a distance of 158.25 feet to the point of beginning of land to be described; thence continuing North 55 degrees 01 minute 40 seconds East along said northwesterly line of Block 41 and its northeasterly extension 340.00 feet to the northwesterly extension of the southwesterly line of Lot I, Block I, Commercial Street Addition, according to the recorded plat thereof; thence South 48 degrees 43 minutes 51 seconds East along said northwesterly extension of the southwesterly line of Lot I and along said southwesterly line of Lot I and Lot 2, a distance of 456.75 feet; thence South 53 degrees 24 minutes 19 seconds West 249.53 feet; thence North 48 degrees 43 minutes 51 seconds West 122.60 feet to the southeasterly line of vacated Conway Street; thence South 54 degrees 33 minutes 05 seconds West along the said southeasterly line of vacated Conway Street and its southwesterly extension 170.05 feet; thence North 34 degrees 58 minutes 20 seconds West 333.04 feet to the point of beginning.