

Minnesota Department of Transportation  
CO – Metro Division  
1500 County Road B2  
Roseville, MN 55113  
651-234-7577

C.S.6283 (94=392) 901 PARCEL 14 & 15 LEASE NO.

### PET EXERCISE AREA LEASE

THIS LEASE is made between the State of Minnesota, Department of Transportation ("Landlord"), and the City of Saint Paul ("Tenant").

Mail lease to: Bruce Engelbrekt  
Real Estate Manager, Office of Financial Services  
25 W. 4<sup>th</sup> St., Rm. 1000  
Saint Paul, MN 55102

#### IT IS AGREED:

1. In consideration of payment of the rent hereinafter specified to be paid by Tenant, and the covenants and agreements herein contained, Landlord hereby leases to Tenant that certain property ("Premises") in the County of Ramsey, State of Minnesota, described as follows:

Type of Premises: Land – Commercial vacant land

Depiction of Premises: See Exhibit A attached hereto and incorporated herein by this reference.

This Lease includes improvements, if any, and is in effect for the term of two (2) years commencing on September 1, 2013 ("Commencement Date") and continuing through August 31, 2015 with the right of termination in both Landlord and Tenant as hereinafter set forth. If Tenant wishes to renew the lease, Tenant will provide Landlord with written notice of intent to renew at least 90 days prior to the end of the initial Lease term. If Landlord agrees to renew, the Lease will be amended and executed upon mutual agreement of both parties.

2. RENT. Tenant shall pay to Landlord as rent for the Premises the sum of One Thousand and no/100 (\$1,000.00) in two (2) equal annual installments of Five Hundred Dollars and no/100 (\$500.00) in advance due and payment on the Commencement Date and on the first day of September during the term of this Lease. Rent payments are to be mailed or delivered to Landlord's finance office as follows:

Department of Transportation  
Office of Financial Management  
Accounting Department  
395 John Ireland Boulevard - Mailstop 215  
St. Paul, Minnesota 55155

Make checks payable to:  
  
Commissioner of Transportation

3. **USE OF PREMISES.** Tenant will use the Premises only as a pet exercise area operated by the Tenant as for licensed (unleashed) pet accompanied by an owner or agent or caretaker responsible for the pet for short duration (3 hours or less per day), provided Tenant obtains necessary permits from relevant authorities. Under no circumstances will alcohol, beer or wine be allowed on the Premises. Tenant will not be permitted to sell any items for sale on the Premises. The pet exercise area will be operated under the name City of Saint Paul, Department of Parks and Recreation, and no other name whatsoever except with Landlord's written consent. The hours of operation will be 6:00AM – 10:00P.M.

It shall be the sole responsibility of Tenant to comply with all laws, regulations, or ordinances imposed by any jurisdiction governing the use of the Premises. Failure to comply will not relieve Tenant of the obligation to pay rent. Tenant's use of the Premises must not interfere with the public's use of any adjacent highway.

Signs or displays will be restricted to those indicating proprietorship and type of activities conducted on the Premises, and will be subject to regulation by Landlord and the Federal Highway Administration as to number, size, location, and design.

#### 4. MAINTENANCE AND REPAIRS.

4.01 Tenant shall keep the Premises in good condition at Tenant's own expense, and shall not call on Landlord to make any improvements or repairs.

**4.02** Excepting a perimeter fence to be installed by Tenant at its sole cost and expense, Tenant will not make any improvements or incorporate any dedications/memorials on the Premises. Prior to the construction and installation of the perimeter fence, Tenant will provide to Landlord plans and specifications for Landlord's approval. Upon expiration or earlier termination of the term Tenant at its sole cost and expense will remove the perimeter fence and return the Premises to its condition prior to the Commencement Date of this Lease.

4.03 Trash. Tenant will have trash receptacles located on the Premises and such pickup service to be not less than once per week.

#### 5. RULES AND REGULATIONS.

5.01 Purpose. The Rules and Regulations in Exhibit B attached hereto and by this reference

incorporated herein have been adopted by Landlord for the safety, benefit and convenience of all invitees in the Premises.

5.02 Observance. Tenant will at all times comply with, and will cause its employees, agents, licensees and invitees to comply with, the Rules and Regulations from time to time in effect.

5.03 Modification. Landlord may from time to time, for the purposes set out in Section 5.01, amend, delete from, or add to the Rules and Regulations, provided that any such modification

- (a) Will not be repugnant to any other provision of this Lease,
- (b) Will be reasonable, and
- (c) Will be effective only upon delivery of a copy thereof to Tenant at the notice address set forth in this Lease.

6. CHARGES AND EXPENSES. Tenant shall pay when due all utility charges, if any, and any other charges or expenses connected with Tenant's use of the Premises.

7. NOTICES. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when served personally on Landlord or Tenant, or when made in writing and deposited in the United States Mail and addressed as follows: To Tenant at the mailing address above stated and to Landlord, Department of Transportation, Metro District – 1500 County Road B2, Roseville, MN 55113. The address to which notices are mailed may be changed by written notice given by either party to the other.

8. CANCELLATION. This Lease shall be subject to cancellation by either party for cause at any time during the term hereof by giving the other party notice in writing at least ninety (90) days prior to the date when the cancellation will become effective. Furthermore, this Lease shall be subject to cancellation by Landlord if the Premises become needed for highway purposes (as determined solely by Landlord) by giving Tenant notice in writing at least thirty (90) days prior to the date when the cancellation will become effective. In the event of cancellation any unearned rent paid by Tenant will be returned.

9. INDEMNIFICATION AND RELEASE. Tenant shall defend, indemnify, save harmless, and release Landlord and Landlord's employees from and against all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Tenant and Tenant's property) occurring on the Premises and connected with Tenant's use and occupancy of the Premises, regardless of whether such injury, death, loss, or damage is caused in part by:

- (i) the negligence of Landlord or
- (ii) is deemed to be the responsibility of Landlord,

because of its failure to supervise, inspect, or control the operations of Tenant or otherwise discover or prevent actions or operations of Tenant giving rise to liability to any person. Injury to or death of persons, property or animals specifically includes by way of example and without limitation, dog bites and other injuries or death resulting from dog attacks.

If any negligence or responsibility of Landlord is unrelated to Tenant's occupancy or use of the Premises, Tenant will not be obligated to indemnify and hold harmless as set forth above.

Tenant hereby reserves all rights, defenses and immunities as provided by law.

10. **INSURANCE.** As a condition of this Lease, Tenant hereby certifies that it is a duly authorized self-insured entity in accordance with Minnesota state law for purposes of general liability, property damage and workers compensation claims; and furthermore, that it hereby affirms and maintains its entitlement to all available immunities, defenses and protections to the fullest extent provided by law.

11. **FIRE INSURANCE.** Tenant shall not be required to keep the Premises insured for fire and extended coverage loss. Tenant shall make no claim against Landlord arising out of any loss to the Premises.

12. **RIGHT TO ENTER.** Tenant shall allow Landlord and Landlord's contractors and authorized licensees to enter upon the Premises for any of the following purposes: to survey the land, to take soil borings, to perform utility relocation or repair work, or to perform any other work which is preparatory to a highway construction project; also to make emergency repairs required for highway safety. If there is a bridge above or adjacent to any part of the Premises, Tenant shall allow Landlord to enter upon the Premises to inspect, maintain, and repair the bridge and its structural supports. If any of these operations substantially restrict the Tenant's use of the Premises, rent will be reduced proportional to the restricted use of the Premises during the period of the restricted use. The reduction (or abatement) of rent will be Tenant's only claim against Landlord based on such restriction (or abatement) of use. Tenant shall allow Landlord to inspect the Premises and to show the Premises by appointment to prospective buyers or renters. Before entering the Premises for any of the purposes under this paragraph, Landlord will make a reasonable effort to notify Tenant, provided, however, that in case of an emergency affecting highway safety (the existence of which will be determined solely by Landlord), if Tenant is not present to permit entry onto the Premises, Landlord or its representatives may enter without notice to Tenant, and for such entry Landlord or its representatives will not be liable to Tenant.

13. **ADJACENT HIGHWAY FACILITY.** Tenant shall not permit the storage of any substance or material on the Premises which may create a fire hazard to the adjacent highway facility (including any overhead bridge and its structural supports). If Landlord determines that Tenant is using the Premises in such a way as to create a danger to the adjacent highway facility or the

traveling public thereon, and if, upon receiving notice, Tenant does not immediately remedy the danger to the satisfaction of Landlord, then Landlord may immediately cancel this Lease and take possession of the Premises. Any requirement for giving notice of cancellation set out elsewhere in this Lease will not apply to cancellation under this section. Unearned rent paid by Tenant will be returned.

If a part of the Premises is situate under or adjacent to a highway bridge, Tenant acknowledges that Landlord's plowing and sweeping of the bridge may cause snow, ice, sand, or road sweepings to be pushed off the sides of the bridge or otherwise expelled off the bridge, falling onto the Premises. Tenant agrees that this risk is specifically included in the Tenant's indemnification and release of Landlord appearing elsewhere in this Lease.

14. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease or sublet the Premises.

15. CIVIL RIGHTS ACT. Tenant shall not discriminate on the ground of race, color, sex, or national origin against any person in access to and use of the facilities and services operated or otherwise maintained on the Premises; and Tenant shall operate and maintain such facilities and services in compliance with Title VI of the Civil Rights Act of 1964, and Title 49, Code of Federal Regulations, Part 21.

16. DEFAULT BY TENANT - LANDLORD'S REMEDIES. The following occurrences are "events of default":

(a) Tenant defaults in the due and punctual payment of rent, and such default continues for five (5) days after notice from Landlord; however, Tenant will not be entitled to more than one notice for default in payment of rent during any twelve month period, and if, within twelve months after any such notice, any rent is not paid when due, an event of default shall have occurred without further notice.

(b) Tenant breaches any of the other agreements, terms, covenants, or conditions which this Lease requires Tenant to perform, and such breach continues for a period of thirty (30) days after notice by Landlord to Tenant.

At any time after the occurrence of either of the above events of default, Landlord may terminate this Lease upon giving written notice to Tenant and may then re-enter and take possession of the Premises in such manner as allowed or provided by law. Tenant shall pay Landlord all costs and expenses, including attorney's fees, in any successful action brought by Landlord to recover unpaid rent, or to recover damages for breach of any of the other covenants, agreements, terms, or conditions which this Lease requires Tenant to perform, or to recover possession of the Premises.

17. **HOLDING OVER.** If Tenant remains in possession of the Premises after the end of this Lease with the consent of Landlord, express or implied, Tenant shall occupy the Premises as a Tenant from month to month, subject to all conditions, provisions, and obligations of this Lease in effect on the last day of the term.

18. **MOVING OUT.** At the expiration or sooner termination of this Lease, Tenant shall leave the Premises in as good condition as when delivered to Tenant (except for ordinary wear and any loss covered by insurance payment to Landlord).

19. **SALE OR TRANSFER OF PREMISES.** If Landlord sells or transfers the Premises, Landlord's liability for the performance of its covenants under this Lease shall end on the date of the sale or transfer, and Tenant shall look solely to the purchaser or transferee for the performance of those covenants.

20. **RELOCATION ASSISTANCE:** Persons, businesses, farms, non-profit organizations, and other entities (hereinafter collectively referred to as Tenant) displaced by cancellation or termination of this Lease, or by moving out prior to cancellation or termination of this Lease, are not classified as "displaced persons" and are **not** eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its amendments. By signing this Lease, TENANT affirms that they are not a displaced person.

21. **HAZARDOUS SUBSTANCES OR POLLUTANTS OR CONTAMINANTS.** Tenant shall not cause or permit any hazardous substance or pollutant or contaminant to be used, generated, stored or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors or invitees. If the Tenant causes or allows the Premises to become contaminated in any manner by hazardous substances or pollutants or contaminants, during the term of this Lease, Tenant shall indemnify and hold harmless the Landlord in accordance with Section 8 of this Lease. This indemnification is intended to, and shall, survive the termination of this Lease. Without limitation of the foregoing, if Tenant causes or permits the presence of any hazardous substance or pollutant or contaminant on the Premises, and that presence results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions approved by the Landlord to return the Premises to a condition that is in accordance with all applicable Federal, State and Local regulations.

22. **ENTIRE AGREEMENT.** This Lease contains the entire agreement between Landlord and Tenant with respect to its subject matter and may be amended only by subsequent written agreement between them. Except for those which are set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

**TENANT, CITY OF SAINT PAUL**

By \_\_\_\_\_  
Its Mayor or Deputy Mayor

Date \_\_\_\_\_

By \_\_\_\_\_  
Its Director of Financial Services

Date \_\_\_\_\_

By \_\_\_\_\_  
Its City Clerk

Date \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

Date \_\_\_\_\_

**LANDLORD, STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
COMMISSIONER OF TRANSPORTATION**

By \_\_\_\_\_

Date \_\_\_\_\_

Approved as to form and execution

**OFFICE OF CONTRACT MANAGEMENT**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT B**  
**RULES AND REGULATIONS**

1. **Security.** Landlord may from time to time adopt appropriate systems and procedures for the security or safety of the adjacent highway, any persons occupying, using or entering the same, and Tenant will comply with Landlord's requirements relative thereto.
2. **Personal Use of Premises.** The Premises will not be used or permitted to be used for residential, lodging or sleeping purposes or for the storage of personal effects or property not required for purposes set forth in Paragraph 3.
3. **Repair, Maintenance, Alterations and Improvements.** Tenant will carry out Tenant's repair, maintenance, alterations and improvements on the Premises without disruption to the adjacent highway.
4. **Animals.** Excepting dogs, Tenant will not bring any animals onto the Premises.
5. **Food and Beverages.** Tenant will not permit on the Premises the use of equipment for dispensing food or beverages or the preparation, solicitation of orders for, sale, serving or distribution of food or beverages.
6. **Refuse.** Tenant will place all refuse in proper receptacles provided by Tenant at its expense in the Premises and will keep the Premises free of all refuse.
7. **Dangerous or Immoral Activities.** Tenant will not make any use of the Premises which involves the danger of injury to any person, nor will the same be used for any immoral purpose.
8. **Employees, Agents and Invitees.** In these Rules and Regulations, Tenant includes the employees, agents, invitees and licensees of Tenant and others permitted by Tenant to use or occupy the Premises.