

AGREEMENT
between
CITY OF HUGO
and
BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL
for
BALD EAGLE LAKE DAM REPAIR

This **AGREEMENT** ("Agreement") is entered into this ____ day of _____, 2015 by and between the City of Hugo ("City") and the Board of Water Commissioners of the City of Saint Paul ("Board").

R E C I T A L S

A. Bald Eagle Lake Dam, Section 31, T31N, R21W, is located in the City of Hugo, Washington County, at the north outlet of Bald Eagle Lake on Clearwater Creek. The dam was originally built in 1889 and presently serves to maintain lake levels on Bald Eagle Lake.

B. The dam is integral with 129th Street North in the City of Hugo, as the road embankment also serves as the dam embankment. The dam embankment is approximately 1,000 feet long. The existing dam is a 40-foot long rubble masonry weir located on the downstream side of the embankment, with five elevated corrugated metal pipes conveying flow under the road. The dam requires repair to perform its lake level control function and deteriorated metal pipes need to be replaced.

C. The City is the Grantee under a dam safety grant agreement with the Minnesota Department of Natural Resources (MnDNR) pursuant to Minnesota Statutes § 103G.511 and 103G.515. Under the grant agreement, the MnDNR will reimburse the City in the amount of \$160,000 to defray the City's cost in repairing the dam as a part of its reconstruction of 129th Street North under S.A.P. 224-080-002.

D. The Board will contribute \$30,000 toward the replacement of the dam. These funds are to be budgeted in 2015.

E. Lands riparian to Bald Eagle Lake lie in several communities and in Washington, Anoka, and Ramsey Counties. There is general public access to the lake for recreational and related purposes. The Board has the authority and ability to withdraw one billion gallons of water per year from Otter Lake, which is hydraulically connected to Bald Eagle Lake via a Board-owned structure and canal. The Board agrees to contribute to future maintenance of the new dam in an amount equal to the percentage of its appropriated amount that it actually withdraws. In other words, if the Board withdraws one billion gallons, the Board would pay for 100% of the necessary maintenance costs for the following year; if the Board does not withdraw water, then it would pay nothing. Any withdrawals between those amounts would result in a proportional contribution towards the following year's maintenance costs. It is the intent of this paragraph that such contributions will be made toward costs to maintain only the dam, spillway and outlet. Costs to maintain the roadway over the dam and any other elements not part of the dam, spillway and outlet will not qualify for this contribution.

TERMS

Accordingly, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the City and the Board (the "Parties") agree as follows:

1. The City will repair the dam in accordance with Minnesota Department of Transportation plans for construction of Bridge No. L-8180, Minnesota S.A.P. project No. 224-080-002, incorporated herein by reference, copies of which are on file in the offices of the Board and the City, and title page of which is attached hereto for reference. The City is responsible for obtaining all permits, approvals and land rights necessary for the work.
2. The City's engineer will issue a certificate of substantial completion and provide the Board an as-built plan confirming that construction has materially conformed to the above-described plans. Within 30 days of receipt of the certificate and as-built plans, the Board will pay the City the sum of \$30,000 to partially defray repair cost. This amount is fixed and does not depend on actual contract price.
3. Neither the City nor the Board claims any ownership interest in the dam or responsibility for any future repair of the dam. Nothing in this Agreement and no term of the MnDNR grant agreement, is to be read otherwise, including but not limited to: (a) the City's role of Grantee per Recital C.; (b) its performance of the dam repair; (c) the funding commitments of the Parties; and (d) the obligation to conduct routine inspections and minor debris removal from the weir as set forth in the grant agreement.
4. Liability
 - a. Each Party agrees that it will be responsible for its own acts and omissions and the acts and omissions of its officers and employees, and any liability resulting therefrom, to the extent authorized by law. No Party shall be responsible for the acts of the other and/or the results thereof.
 - b. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own employees while they are providing assistance pursuant to this Agreement.
 - c. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as, nor operate as, waivers of a Party's statutory or common law immunities or limitations on liability, including, but not limited to, Minnesota Statutes Chapter 466. Further, each Party's obligations set forth in this Article and otherwise in this Agreement, and the results thereof, are expressly limited by the provisions of Minnesota Statutes Chapter 466, Minnesota Statutes Chapter 604, Minnesota Statutes Section 471.59, and any other applicable law or regulation providing limitations, defenses or immunities to the Parties.
5. The above Recitals are incorporated into this Agreement as terms hereof.
6. This Agreement shall be in effect beginning on the date of the last signature and shall remain in force and effect until December 31, 2016, or until the City has received the Board's payment described in Section 2 above, whichever is later.

CITY OF HUGO

Bryan Bear, City Administrator

Date: _____

David K. Snyder, Hugo City Attorney

Date: _____

**BOARD OF WATER COMMISSIONERS
OF THE CITY OF SAINT PAUL**

Stephen P. Schneider, General Manager
Saint Paul Regional Water Services

Matt Anfang, President

Date: _____

Date: _____

Mollie Gagnelius, Secretary

Approved as to Form:

Date: _____

Assistant City Attorney

Todd Hurley, Director
Office of Financial Services

Date: _____

Date: _____

