

This amendment to the July 13, 2021 Lease Agreement between the Board of Water Commissioners of the City of Saint Paul, a municipal corporation under the laws of the State of Minnesota ("the Board") and the City of Saint Paul, a home rule charter city ("the City") is made this 10th day of October, 2023; and

WHEREAS, the Board and the City entered into a Lease Agreement for property owned by the City and located within Section 10, Township 28, Range 22, commonly referred to as Pig's Eye Regional Park; and

WHEREAS, the Board intended to use the property to construct, operate, and maintain excavated soils recycling and storage, and

WHEREAS, the Board is unable secure the necessary approvals under requirements from the Minnesota Pollution Control Agency to use the property for the purposes contemplated in the lease; and

WHEREAS, the Board sought, as an alternative to the approvals required, to secure a permit from a nearby railroad to accomplish the purposes of this agreement, but such efforts were unsuccessful; and

WHEREAS, the Lease Agreement was for an initial term of July 13, 2021 through December 31, 2041, and

WHEREAS, in consideration of its right to use the site, the Board paid the City a rental payment and portion of the cost for schematic design of Pig's Eye regional park; and

WHEREAS, given the Board's inability to use the site for its intended purposes, the Board and the City have agreed upon conditions for the termination of the July 13, 2021 lease;

Now, therefore, the parties agree as follows:

1. Section 14 of the July 13, 2021 Lease Agreement is hereby amended as follows. New language is indicated by underline, and deleted language is indicated by strikethrough.

14. Termination

- a. The City may terminate this lease for any reason upon one-year written notice to the Board after the first five years of the Term. The City will compensate the Board for the termination by paying a prorated amount of the Board's investments into the Leased Premises. This amount shall be the cost of the Board's investment into schematic design under § 3(b) and the Board's investment into a parking lot and entrance under § 7(i).
- b. If for cause, the Board or the City will provide the other party with sixty (60) days written notice of intent to terminate this Lease. If the notified party fails to cure the stated cause within sixty (60) days of receipt of notice, the Lease

will be terminated, with no compensation for damages owed to the notified party.

- c. The Board may terminate the lease in the event that it is unable to use the property for the purposes described in Section 4 of this agreement. In the event the Board elects to terminate the lease pursuant to this subsection, it shall notify the City at least 30 days prior to ending the lease.
- d. If the Board terminates the lease pursuant to subsection c, above, the obligations to pay the costs of schematic design shall cease on the date of lease termination, unless the City notifies the Board of any changes during the 30 day period in subsection (c) of this section.

BOARD OF WATER COMMISSIONERS
OF THE CITY OF SAINT PAUL

CITY OF SAINT PAUL

President

Mayor/Designee

Secretary

Director of Parks & Recreation

General Manager

Director of Finance

Approved as to form:

City Clerk

Assistant City Attorney

Approved as to form:

Assistant City Attorney