

AMENDED AND RESTATED LEASE AGREEMENT

This Amended and Restated Lease Agreement (“Agreement”) is entered into this ____ day of _____, 2021 (“Effective Date”), by and between the County of Ramsey, a municipal subdivision of the State of Minnesota (“Landlord” or “County”), and the City of Saint Paul, a Minnesota municipal corporation (“Tenant” or “City”).

RECITALS

WHEREAS, the County and the City entered into that certain Real Property Lease dated November 4, 1974 (the “1974 Lease”), for certain real property (the “Leased Premises”) consisting of 7.24 acres and legally described as set forth in **Exhibit A** and as depicted in **Exhibit B**; and

WHEREAS, the 1974 Lease was for a term of 99 years beginning on January 1, 1975, and ending on December 31, 2073; and

WHEREAS, the 1974 Lease permitted the City to use the Leased Premises as an outdoor pistol range; and

WHEREAS, the 1974 Lease allowed the City to make alterations, attach fixtures or signs, or erect structures on the Leased Premises, with the City retaining ownership of such alterations, fixtures, signs, and structures; and

WHEREAS, the City has held exclusive use of the Leased Premises for this purpose, and has erected and constructed the following improvements: a 25-yard target range; a 50-yard target range; an open canopy building south of the 25-yard target range; a small training classroom/storage building; a small office building with bathroom; a tactical simulation range area with several small outbuildings surrounding an open yard (collectively, the “Improvements”); and

WHEREAS, the Leased Premises also includes a 1-acre pond that is not used by the City, and serves as a collection pond for stormwater run-off from the Leased Premises and surrounding County-owned property (the “Pond”); and

WHEREAS, the Leased Premises is served with City utilities (water, sanitary sewer, electric, and gas), paid at City expense; and

WHEREAS, in 1989 the City purchased an adjacent 4.74-acre, vacant parcel to the west of the Leased Premises to serve as noise buffer; and

WHEREAS, the City has on-going need of the Leased Premises for training and shooting certification purposes by the City’s Police Department, including training with and certification on firearms other than pistols; and

WHEREAS, the City and the County have entered into a cost-share agreement for the purchase of sound suppressors for firearms used on the Leased Premises; and

WHEREAS, it is in the public's interest for the continued use of the Leased Premises as set forth herein.

NOW THEREFORE, based on the mutual promises and the terms and conditions stated herein, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the County and the City agree as follows:

1. **Incorporation of Recitals and Exhibits.** The City and the County agree that the Recitals and Exhibits are correct and are incorporated herein.
2. **Agreement.** The County agrees to lease to the City and the City agrees to lease from the County the Leased Premises, according to the terms and conditions set forth herein.
3. **Purpose.** The Leased Premises may be used and occupied by the Saint Paul Police Department ("SPPD") for departmental training and shooting certification purposes. The SPPD may use the Leased Premises in conjunction with its law enforcement partners for joint training purposes, so long as representatives of the SPPD are participating in the joint training (collectively, the "Permitted Use").
4. **Term.** This Agreement will be for a term Commencing on the Effective Date and ending on December 31, 2073. Either party may terminate this Agreement at any time with the consent of the other party.
5. **Utilities.** The City shall pay for all utilities serving the Leased Premises.
6. **Community Obligations.** The City shall
 - a. generally but not exclusively use sound suppressors on all non-handgun firearms, and, when practicable, provide not less than 24 hours' notice to nearby community groups when sound suppressors will not be in use for an extended period of time;
 - b. continue to provide a schedule of all activity on the Leased Premises to nearby community groups;
 - c. generally restrict hours of active use of the Leased Premises to 8:00 a.m. through 4:00 p.m., and generally only on weekdays; and
 - d. generally restrict use of the Leased Premises to officers of the SPPD, while occasionally cross-training with other law enforcement partners.
7. **Condition of the Leased Premises.** The City has examined the Leased Premises and accepts the same in its current condition "AS IS" and "WITH ALL FAULTS". The County makes no representation or warranty, express or implied, or arising by operation of law, including but not limited to, any warranty of fitness for a particular purpose, merchantability, habitability, suitability, or condition. The City acknowledges that the City has not relied on any representation or warranties by the County in entering into this Agreement.
8. **Use of the Leased Premises.** The City will use the Leased Premises only for the Permitted Use and will not commit waste upon the Leased Premises. The City, at its sole expense, will

maintain the Leased Premises, with the exception of the Pond, in good repair and make all necessary repairs thereto. The City will not use the Leased Premises for any unlawful purpose or in any manner that with materially harm the County's interest in the Leased Premises.

9. **Future Improvements.** The City may make improvements, alterations, additions, or other changes to the Leased Premises ("Future Improvements") without written approval of the County. However, a courtesy copy of any plans for Future Improvements shall be provided to the County, upon commencement of construction. The City agrees that any construction will be performed in a good and workmanlike manner and will comply with applicable laws. Prior to commencing construction of any improvements beyond the existing Improvements, the City, at its own expense, will obtain all required permits from any applicable regulating agency. All Future Improvements will remain the property of the City upon termination of this Agreement. The City has the right to erect any lawful sign on the Leased Premises.

10. **No Encumbrances.** The City does not have the right to grant a mortgage, deed of trust, or other security instrument in the City's interest in the Leased Premises. The City does not have the right to grant an easement, license, permit, or any other encumbrance on the Leased Premises.

11. **Compliance with Laws.** The City covenants and agrees to comply with all federal, state, and local laws, regulations, and ordinances affecting the Leased Premises and use of the Leased Premises, including applicable environmental laws. It is understood that there may be some potential environmental impact or by-product from the Permitted Use, which impact or by-product is not prohibited by this Agreement.

12. **Hazardous Substances.** Except to the extent required for the Permitted Use, the City will not keep or store on the Leased Premises any item of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire or explosion on the Leased Premises, or that might be considered hazardous or extra hazardous by any responsible insurance company.

13. **Insurance.** The County and the City shall acquire during the term of this Agreement the following coverage:

COMPREHENSIVE GENERAL LIABILITY INSURANCE

- a. The County is self-insured for comprehensive general liability, pursuant to Minnesota Statutes Chapter 466.
- b. The City is self-insured for comprehensive general liability, pursuant to Minnesota Statutes Chapter 466.

14. **Waiver of Subrogation.** The County and the City each waive any and all claims or rights to recovery against the other party for any loss or damage to the extent such loss or damage is covered by insurance or would be covered by insurance as required under this agreement. The County and the City will cause each insurance policy carried by the County or the City relating to the Leased Premises to include or all a full waiver of any subrogation claims.

15. **Indemnification.** The City shall protect and indemnify the County from and against all claims, demands, judgments, and charges arising out of or occasioned by the Permitted Use, and construction and maintenance of Improvements or Future Improvements upon the Leased Premises.

16. **Limitation of Liability.** The County is not responsible for any loss, claim, damage, or expense as a result of any accident, injury, or damage to any person or property occurring anywhere on the Leased Premises, as a result of the Permitted Use, unless resulting from the negligence or willful misconduct of the County. Notwithstanding the foregoing:

- 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 others and the results thereof. Each party agrees to promptly notify all parties if it becomes aware of any potential claim(s) or facts giving rise to such claims.
- b. 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 obligations set forth in this Section and otherwise in this Agreement, 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.

17. **Access to the Leased Premises.** The County or its agents may have access to the Leased Premises at reasonable times, and upon three (3) days' notice to the City.

18. **Surrender of the Leased Premises.** The City shall return the Leased Premises to the County upon termination of this Agreement in good condition and repair, ordinary wear and tear excepted. Within 60 days following the termination of this Agreement, the City shall remove all Improvements and Future Improvements, as well as all equipment, materials, fixtures, and other personal property belonging to the City from the Leased Premises. Any property left on the Leased Premises after 60 days following the termination of this Agreement will be deemed abandoned by the City and may be retained by and disposed of by the County.

19. **Recording.** The County, at the County's expense, shall record this Agreement with the Ramsey County Recorder within 45 days of execution of this Agreement. Any future amendments to this Agreement shall be recorded at the County's expense.

20. **Relationship of the Parties.** Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or other fiduciary relationship between the City and the County as related to the Leased Premises, other than landlord and tenant. Neither party is authorized to act as an agent or on behalf of the other party.

21. **Assignment and Subletting.** The City will not assign this Agreement as to all or any portion of the Leased Premises or make or permit any total or partial sublease or other transfer of all or any portion of the County.

22. **Quiet Enjoyment.** The City agrees it will comply with and perform all obligations under this Agreement, which entitles the City to peaceably and quietly hold and enjoy the Leased Premises for the Permitted Use during the Term.

23. **Force Majeure.** Neither the County nor the City shall be responsible for any delays or failure to perform any of its obligations under this Agreement if the party is delayed or prevented from performing due to any of the following: any acts of God, casualty, accident, breakage, repairs, strike or labor troubles, terrorist acts, war, governmental restrictions, acts of governments or government authorities, or other similar of dissimilar cause whatsoever, which is beyond the reasonable control of the party.

24. **Notices and Demands.**

a. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given if it is dispatched by registered or certified mail, postage pre-paid, return receipt requested, and addressed to the party at the addresses listed below with receipt thereof presumed on the third business day thereafter. Either party may designate another address, or attorney for receipt of notices pursuant to this Agreement by designating in writing and forwarding such writing to the other party as provided in this section.

b. Notices, demands, or other communications to a party under this Agreement shall be sufficiently given if sent by registered or certified mail, postage pre-paid, return receipt requested, and addressed to the party as follows:

If to the County:

Ramsey County Property Management
ATTN: Director
121 Seventh Place East, Suite 2200
St. Paul, Minnesota 55101

If to the City:

City of Saint Paul
Financial Services – Real Estate Section
ATTN: Real Estate Manager
25 West Fourth Street, Suite 1000
St. Paul, Minnesota 55102

With a copy to:

Ramsey County
ATTN: County Manager
250 Courthouse
15 West Kellogg Boulevard
St. Paul, Minnesota 55102

25. **No Waiver.** No party shall be deemed to have waived any portion of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly in writing.

26. **Severability.** If any provision or term of this Agreement for any reason is declared invalid, illegal or unenforceable, such decision shall not affect the validity of any remaining provisions, provided that: (i) each party receives the substantial benefit of its bargain with respect to the transaction completed hereby; and (ii) the ineffectiveness of such provision would not result in such a material change as to cause completion of the transactions contemplated hereby to be unreasonable for either party. The remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated and it is hereby declared the intention of the parties that they would have executed the remaining portions of this Agreement without including any such part or portion which may be hereafter declared invalid.

27. **Signatures/Execution.** Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties further agree that any document 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 record when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is transmitted by any electronic means, including without limitation a facsimile 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 Agreement.

28. **Governing Law.** The County and the City agree that the laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the undersigned parties and performance under it without regard to the principles of conflicts of law. The language of this Agreement is and shall be deemed the result of negotiation among the parties and their respective legal counsel and shall not be strictly construed for or against any party. Each party agrees that any action arising out of or in connection with this Agreement shall be brought solely in the courts of the State of Minnesota, Second Judicial District, or the United States District Court for the District of Minnesota.

29. **Entire Agreement; Prior Leases.**

- a. This Agreement represents the entire agreement between the County and the City. This Agreement supersedes all prior discussions, licenses, understandings, and other agreements of the parties, oral or written, relating to the transaction represented hereby.
- b. This Agreement amends and restates the 1974 Lease. All rights and obligations of the parties, and remedies available to the parties shall be governed by this Agreement.

- c. **Amendments.** This Agreement may not be modified except in writing signed and acknowledged by both parties.

30. **Headings.** The section headings herein are for reference purposes only and shall not otherwise affect the meaning, construction, or interpretation of any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their duly authorized officers and representative on the day and year first written above.

RAMSEY COUNTY

CITY OF SAINT PAUL

By: _____
Chair
Ramsey County Board of Commissioners

By: _____
Its: Mayor or designee

By: _____
Chief Clerk
Ramsey County Board of Commissioners

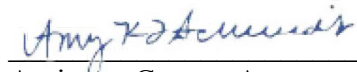
By: _____
Its: City Clerk

Recommending Approval:

By: _____
Its: Director, Office of Financial Services

Director, Property Management

Approved as to Form:



Assistant County Attorney

Approved as to Form:

Assistant City Attorney

This instrument was drafted by:
Ramsey County Attorney's Office
121 7th Place East, Suite 4500
St. Paul, MN 55101

EXHIBIT A

Legal Description of the Leased Premises

The west 600 feet of the South 525 feet of the Southeast Quarter of the Southeast Quarter of Section 12, Township 28, Range 22, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Ramsey County, Minnesota.

EXHIBIT B

Aerial Depiction of the Leased Premises

