

# Exhibit A

## ACCESS AGREEMENT

**THIS ACCESS AGREEMENT** (this “Agreement”), is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Bayer CropScience Inc.**, a New York corporation, with offices at 5000 CentreGreen Way; Suite 400; Cary, NC 27513 (“Bayer”), and the **City of Saint Paul**, a Minnesota municipal corporation (the “City”).

### W I T N E S S E T H:

**WHEREAS**, the City is the fee owner of a certain parcel of improved real property located at 630, 677, and 689 Pierce Butler Route, in the City of Saint Paul, County of Ramsey and State of Minnesota as depicted on the **Exhibit** attached hereto and made a part hereof by reference (the “Premises”);

**WHEREAS**, Bayer desires the right to access the Premises to complete demolition activities, soil removal, back filling, and other remedial activities (“Permitted Uses”).

**WHEREAS**, the City is willing to grant Bayer and or Bayer’s employees, officers, directors, contractors, agents, and consultants (collectively, “Bayer’s Authorized Personnel”) access to the Premises for the Permitted Uses subject to the terms and conditions contained in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the agreements of the parties herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, incorporate the above recitals into their agreement, and agree as follows:

1. **Grant of License.** The City hereby grants to Bayer a temporary license (the “License”) to enter, occupy and use the Premises, including the right to have Bayer’s Authorized Personnel enter, occupy, and use such portions of the Premises, for the Permitted Uses, upon the following terms and conditions, which Agreement shall continue in effect until terminated as provided herein.

(a) The License grants to Bayer the right to access the Premises and to have Bayer’s Authorized Personnel access the Premises for the Permitted Uses. The License hereby authorizes Bayer and the Bayer Authorized Personnel to enter and occupy the Premises in furtherance of the foregoing.

(b) all activities performed pursuant to the License shall be in substantial compliance with all applicable federal, state, or local laws, rules and regulations.

(c) Bayer shall maintain the portions of the Premises that Bayer is licensed to use in a safe condition, consistent with the Permitted Uses.

(d) Bayer shall not be obligated to pay rent or like consideration for the License.

(e) the City acknowledges and agrees that during the term of the License, Bayer and Bayer's Authorized Personnel shall have non-exclusive access to those portions of the Premises where Bayer and Bayer's Authorized Personnel are actively working, and Bayer and Bayer's Authorized Personnel shall have the right to put such security measures in place with respect to the Premises and the surrounding areas as Bayer deems appropriate. Notwithstanding anything to the contrary herein, the City and Bayer shall act in good faith to work together regarding the access and work locations, throughout all periods of entry on the Premises. The Parties understand and agree that Bayer will remove the existing 6-foot chain link fencing and gates installed in 2014-2016 as part of the Permitted uses. Notwithstanding the foregoing, Bayer will ensure the Premises remains secure from unauthorized access during the term of the License. Upon completion of the remedial activities comprising the Permitted Uses, Bayer will replace the perimeter fence, including the key box, with one of like kind and quality. During the term of the License, Bayer will provide the City with reasonable access to the site, as needed.

f) The southerly existing paved area of the 630 Pierce Butler Route parcel shall be reserved for the exclusive use and access by the City for the storage of materials related to the waste management and recycling operations. Portions of the existing fencing and one of the serviceable gates shall be used to secure this area for the City's use.

2. Term of License. The term of this Agreement shall commence on the date the agreement is executed by both parties. The License shall terminate on the date that Bayer notifies the City that it no longer requires use of the Premises (the "Termination Date"), but in no event will Bayer's use of the Premises exceed two (2) years from the date the Permitted Uses begin on the Premises.

3. Title Representation of Bayer. Bayer certifies, represents, and declares that it has no title in and to the Premises except any equipment and personal property owned or leased by Bayer and located at the Premises, nor to any portion thereof and has not, does not, and will not claim any such title nor any easement over the Premises of the City. Except with respect to the equipment Bayer determines is necessary for the Permitted Uses, nothing herein shall be deemed to allow Bayer to store any personal property or equipment at the Premises, it being agreed that Bayer shall otherwise keep the Premises free and clear of such property at all times.

4. Permitted Use. Bayer acknowledges and agrees that the City may, from time to time, relocate routes for ingress and egress within the Premises, whether such ingress and egress is intended to be by motor vehicles or pedestrians, so long as the City does not frustrate the purpose of this License or unreasonably interfere with the Permitted Uses. The City will provide reasonable notice of any such changes to Bayer and the parties agree to cooperate with each other in good faith and use commercially reasonable efforts to agree upon locations for such

changes. All activities, operations or work performed by Bayer or Bayer's Authorized Personnel on and about the Premises shall be conducted with the least reasonably possible inconvenience to the operations on the Premises, including, without limitation, the City's redevelopment efforts on the Premises.

5. The City's Use. Bayer's exercise of the rights granted to it hereunder shall be done in such a manner as to not unreasonably interfere with the City's reasonable uses of the Premises. If and to the extent the Permitted Uses cannot be reasonably conducted in a manner that does not interfere with the City's reasonable uses of the Premises, Bayer and the City shall cooperate with each other in good faith and use commercially reasonable efforts to reduce such interference. The City and Bayer shall cooperate in connection with the Permitted Uses, and at Bayer's reasonable request, the City shall not suffer or permit any interfering activity by third parties. The City shall coordinate its activities and shall require its licensees to coordinate their activities so as to avoid, to the extent practical, any unreasonable interference with the Permitted Uses.

6. Indemnification by Bayer. Bayer hereby agrees to indemnify and hold harmless the City and the City's employees, officers, directors, contractors, agents and consultants (collectively, "the City's Authorized Personnel") from and against any and all liability, obligation or expense, including reasonable attorneys' fees and other litigation costs, arising out of or relating to personal injury (including death) or property damage: (i) caused by or resulting from the negligence, gross negligence, or willful misconduct of Bayer or any of the Bayer Authorized Personnel, or (ii) caused or resulting from Bayer's breach of this Agreement, in each instance except to the extent caused by the negligence, gross negligence, or willful misconduct of the City or its employees, officers, agents, vendors, contractors, subcontractors, and other representatives.

7. City Liability. The City shall be responsible for its own acts and omissions and shall pay that portion of any and all claims, liabilities, injuries, suits, and demands and expenses of any kind that may result or arise out of any alleged conduct by the City, its employees, agents, or subcontractors, in the performance or omission of any act or responsibility of the City under this Agreement.

8. Liens. Bayer shall not suffer or permit to be enforced against the Premises, or any part thereof, any mechanic's, materialmen's, contractor's, or subcontractor's liens or any claims for damages arising from the Permitted Uses. Bayer shall pay or cause to be paid all of said liens, claims or damages before any action is brought to enforce same against the Premises. Bayer expressly agrees to protect, defend, indemnify, and hold the City and the Premises harmless from and against all liability for any and all such liens, claims and demands, together with reasonable attorneys' fees and all costs and expenses in connection therewith.

9. Assignment. This License is personal to Bayer. Bayer shall not assign or sublease its rights under the License with respect to the Premises; provided, however Bayer may assign its rights under this Agreement to any affiliate of Bayer without the prior consent of, but upon prior notice to, the City.

10. Notices. All notices provided for or desired to be sent by the parties shall be in writing, and shall be deemed to have been fully given when deposited in the United States mail via

prepaid certified mail, or by prepaid overnight mail delivery service providing written evidence of delivery, and addressed as follows:

If to the City:

Real Estate Manager  
Office of Financial Services – Real Estate Section  
City of Saint Paul  
25 West Fourth Street, Suite 1000  
Saint Paul, MN 55102  
[bruce.engelbrekt@ci.stpaul.mn.us](mailto:bruce.engelbrekt@ci.stpaul.mn.us)

With a copy to:

Ian Welsh or Lisa Veith  
Office of City Attorney  
City of Saint Paul  
15 West Kellogg Boulevard, Suite 400  
Saint Paul, MN 55102  
[ian.welsh@ci.stpaul.mn.us](mailto:ian.welsh@ci.stpaul.mn.us)  
[lisa.Veith@ci.stpaul.mn.us](mailto:lisa.Veith@ci.stpaul.mn.us)

If to Bayer:

Mark Bowers, Sr. Remediation Manager  
Bayer CropScience Inc.  
5000 CentreGreen Way, Suite 400  
Cary, NC 27513  
[mark.bowers@bayer.com](mailto:mark.bowers@bayer.com)

With a copy to:

Chintan Amin, Sr. Assistant General Counsel  
100 Bayer Boulevard  
Whippany, NJ 07981  
[chintan.amin@bayer.com](mailto:chintan.amin@bayer.com)

11. Amendment. This Agreement may not be changed orally but only by an instrument in writing signed by both the City and Bayer.

12. Counterparts, Execution. This Agreement may be executed (i) in counterparts, each of which shall constitute an original, although not fully executed, but all of which when taken together shall constitute one Agreement and (ii) via electronic signatures, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

13. Recording. The parties acknowledge that this Agreement may be recorded by Bayer with the Ramsey County property records. The parties shall fully and completely cooperate in executing a recordable “Termination of Agreement” document, by which this Agreement shall be extinguished of record, when Bayer’s rights hereunder have terminated as specified herein. Notwithstanding the foregoing, this Agreement shall automatically terminate and be of no further force or effect as and when set forth in Section 2 above, regardless of whether a Termination of Agreement is promptly thereafter recorded.

14. Governing Law. The substantive laws of the State of Minnesota, without regarding to conflict-of-law rules, shall govern this agreement. Any legal suit, action, or proceeding against the City or Bayer arising out of or relating to this Agreement shall be instituted only in the United States District Court for the District of Minnesota. If the Federal court lacks jurisdiction over the suit, action, or proceeding, the action shall be commenced in state court in the State of Minnesota.

15. Binding. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

*[remainder of page intentionally left blank; signatures follow]*

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the day and year first above written.

**Bayer CropScience Inc.**, a New York corporation

By: \_\_\_\_\_  
 Name:  
 Its:

STATE OF \_\_\_\_\_ )  
 ) SS:  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, a delegate of Bayer Crop Science, a New York corporation on behalf of the corporation.

\_\_\_\_\_  
 Notary Public  
 County: \_\_\_\_\_  
 My Commission Expires: \_\_\_\_\_  
 Acting in: \_\_\_\_\_

[Bayer CropScience, Inc. Signature Page to Access Agreement]

**City of Saint Paul**, a Minnesota municipal corporation

\_\_\_\_\_  
Assistant City Attorney  
Approved as to Form

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

STATE OF MINNESOTA    )  
  ) SS:  
COUNTY OF RAMSEY    )

Before me, a Notary Public in and for said County and State, personally appeared **John McCarthy**, known to me to be the Director of Financial Services for the **City of Saint Paul**, a Minnesota municipal corporation, and acknowledged the execution of the foregoing for and on behalf of the municipal corporation.

Witness my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public - Signature

\_\_\_\_\_  
Notary Public - Printed

My Commission Expires: \_\_\_\_\_ My County of Residence: \_\_\_\_\_

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

STATE OF MINNESOTA    )  
  ) SS:  
COUNTY OF RAMSEY    )

Before me, a Notary Public in and for said County and State, personally appeared **Shari Moore**, known to me to be the City Clerk for the **City of Saint Paul**, a Minnesota municipal corporation, and acknowledged the execution of the foregoing for and on behalf of the municipal corporation.

Witness my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public - Signature

\_\_\_\_\_  
Notary Public – Printed

My Commission Expires: \_\_\_\_\_ My County of Residence: \_\_\_\_\_

[Second City of Saint Paul Signature Page to Access Agreement]



By: \_\_\_\_\_  
Its: Deputy Mayor

STATE OF MINNESOTA    )  
  ) SS:  
COUNTY OF RAMSEY    )

Before me, a Notary Public in and for said County and State, personally appeared **Jamie Tinch**, known to me to be the Deputy Mayor for the **City of Saint Paul**, a Minnesota municipal corporation, and acknowledged the execution of the foregoing for and on behalf of the municipal corporation.

Witness my hand and Notarial Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public – Signature

\_\_\_\_\_  
Notary Public – Printed

My Commission Expires: \_\_\_\_\_ My County of Residence: \_\_\_\_\_

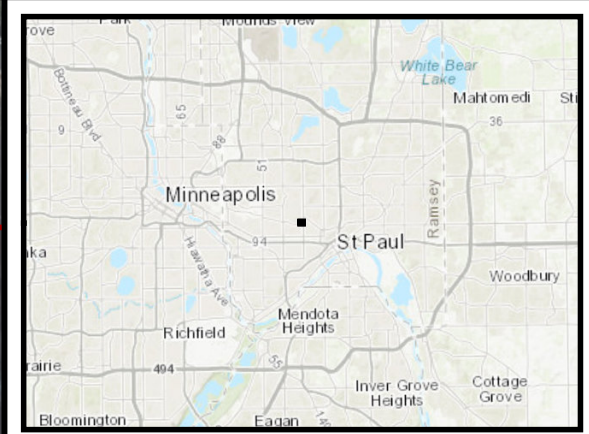
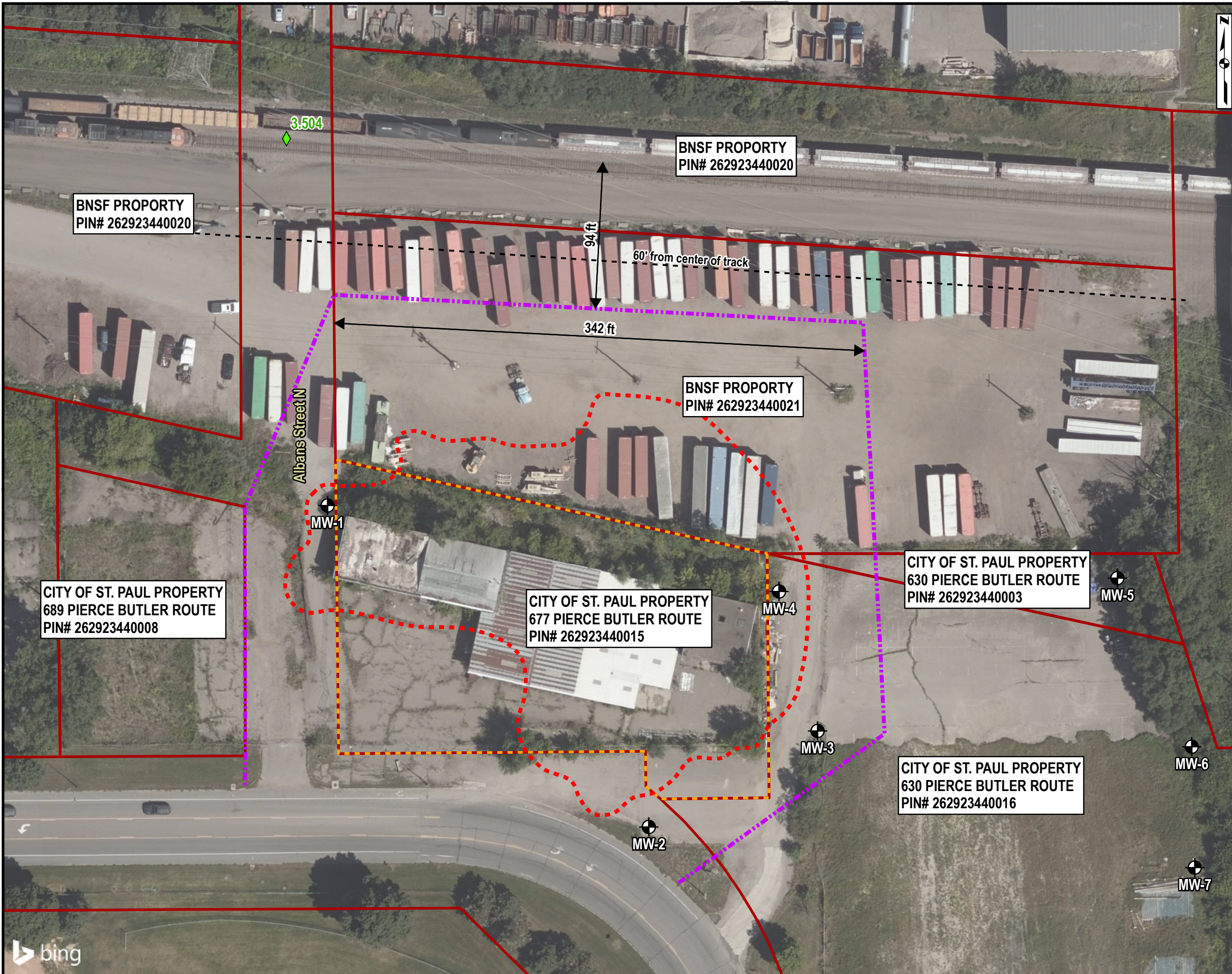
[Third City of Saint Paul Signature Page to Access Agreement]

This instrument was drafted by and the recorded document should be returned to:

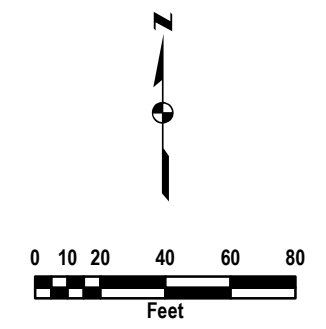
Office of Financial Services – Real Estate Section  
City of Saint Paul  
25 W. 4<sup>th</sup> St., Rm. 1000  
Saint Paul, MN 55102  
651-266-8860

**EXHIBIT**

**THE PREMISES**



- Legend**
- ◆ BNSF Mile Markers
  - ⊕ Monitoring Well Locations
  - - - Construction Boundary with buffer
  - - - Site Boundary
  - - - Approximate Excavation Boundary
  - ▭ Property Boundaries



**Attachment A: Restricted Area Layout and Boundaries Associated with the Former Chipman Chemical Remedial Excavation**  
 677 Pierce Butler Route  
 St. Paul, Minnesota



C:\Users\Team\Documents\Projects\Chipman\X001\Excavation\figme2\_Excavation\figme2.mxd - Draft/Share - 8/20/2020