

PRIVATE WATER MAIN AGREEMENT

THIS PRIVATE WATER MAIN AGREEMENT (this “Agreement”) is made this ____ day of _____, 2022 by and between **St. Paul Fire and Marine Insurance Company**, a Connecticut corporation, whose principal place of business is located at c/o Travelers, 385 Washington Street, St. Paul, MN 55102, Attn: Real Estate Equity (“Owner”), and the **Board of Water Commissioner of the City of Saint Paul**, d/b/a Saint Paul Regional Water Services, a municipal corporation under the laws of the State of Minnesota (the “Board”).

WITNESSETH:

WHEREAS, the Board during all times herein mentioned did and does manage, control and operate, pursuant to the Home Rule Charter of the City of Saint Paul, its water works and public water supply system primarily for the purpose of furnishing an adequate supply of water for industrial, commercial and domestic purposes to residents of the City of Saint Paul within its corporate limits, pursuant to ordinances of said City of Saint Paul germane thereto; and

WHEREAS, Owner owns the following described land, which is situated within the corporate limits of said City of Saint Paul in the County of Ramsey, State of Minnesota, (the “Property”):

See attached Exhibit “A”
and

WHEREAS, Owner has made application to the Board for water supply service to be afforded from the public water supply system to the Property according to the rates and charges

payable therefor by Owner, its successors or assigns, to the Board, as the same may be established from time to time.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties, for themselves, their successors and assigns, do hereby mutually agree as follows:

1. Owner does hereby convey and grant to the Board a perpetual water main easement in, under, through, over and across portions of the Property as described in Exhibit “B-1” and depicted in Exhibit “B-2”, attached hereto and incorporated herein (the “Easement Area”).

2. The Board does hereby grant permission to Owner to construct, maintain and repair a private water main necessary for the furnishing of water service to the Property subject to the terms and conditions contained herein.

3. Owner shall construct the private water main (the “ Private Water Main”) at its sole cost and expense, substantially in accordance with approved plans and specifications on file with the Board, under the supervision and subject to the approval of the Board (which approval shall not be unreasonably withheld, conditioned, or delayed), within the Easement Area described in Exhibit “B”.

4. All service connections (each, a “Service Connection”) from the Private Water Main shall be constructed by Owner at its sole cost and expense, substantially in accordance with plans and specifications approved and on file with the Board under the supervision and approval of the Board (which approval shall not be unreasonably withheld, conditioned, or delayed).

5. All necessary maintenance, repairs, operation, and/or replacement of the Private Water Main and each Service Connection shall be borne by Owner at its sole cost and expense, substantially in accordance with plans and specifications approved and on file with the Board and subject to approval by the Board (which approval shall not be unreasonably withheld, conditioned,

or delayed).

6. The Board, at the request of Owner, or in case of default by Owner in relation to the construction, reconstruction, maintenance, repair, or operation of the Private Water Main in accordance with the terms of this Agreement, may enter upon the Easement Area and construct, reconstruct, maintain, repair, or operate said Private Water Main for the aforesaid purposes of the same and all reasonable cost and expense thus incurred by the Board shall be chargeable by the Board to Owner and shall become due and payable upon presentation of an invoice therefor; and if such charges are not paid when due, the same shall become and constitute a lien upon the Property. In the event of nonpayment after written notice and a reasonable opportunity to cure, the Board reserves the right to deny service.

7. The Board agrees to supply water service to the Property as the same has been or shall be developed for commercial purposes, subject to and in accordance with applicable rates or charges and rules and regulations as they are or shall be established from time to time by the Board. It is understood and agreed, however, that the Board undertakes to supply such water supply only in case the pressure in its mains is sufficient to enable it so to do, and the Board assumes no responsibility for failure to supply water resulting from acts or conditions beyond its control.

8. It is agreed by and between the parties hereto that this Agreement shall be subject to water service rates, rules, and regulations germane to the subject of this Agreement now in force and hereinafter prescribed and promulgated by the Board and further that there shall be and hereby is reserved to the Board the right to change, revise, alter and amend such rates, rules and regulations as its discretion shall direct to that end that such rates, rules and regulations shall be reasonable.

9. No extension of the Private Water Main shall be made without the prior written consent of the Board, which consent shall not be unreasonably withheld, conditioned, or delayed.

10. Official addresses for each Service Connection shall be obtained by Owner and furnished to the Board prior to the installation of each such Service Connection tap.

11. The Board reserves the right to shut off the water service when necessary for the extension, replacement, repair or cleaning of the Private Water Main or apparatus appurtenant thereto, and the Board shall not be held liable for any damage occasioned thereby, except to the extent arising from the negligence or willful misconduct of any Board Parties (defined below). Notwithstanding the foregoing, the Board agrees to use commercially reasonable efforts to minimize the duration of any such interruption of water service.

12. This Agreement shall be binding upon Owner, its successors and assigns. Owner shall not assign its rights and obligations hereunder without first obtaining the written consent of the Board, which consent shall not be unreasonably withheld, conditioned or delayed by the Board; provided, however, the Board's consent shall not be required in connection with any sale by Grantor of the Property. In the event that Owner desires to transfer its title to a less than the whole of the Property, it is expressly understood and agreed that the Owner and transferee(s) shall enter into an agreement by which the transferee(s) shall agree to pay all or a proportionate share of the cost of maintenance and replacement of the Private Water Main and further agree to assume all or a proportionate share of the responsibility and liability arising out of the operation, maintenance, use and repair of the Private Water Main or service pipes. This Agreement shall be in form as to be subject to the reasonable approval of the Board, and the Board shall be provided with two (2) executed copies of this Agreement.

13. Owner, in consideration of its being supplied water by the Board, upon the terms and conditions herein outlined, shall comply strictly with all of the rules and regulations of the Board, so long as Owner is provided copies of the same, and shall pay or cause to be paid unto the Board

therefor according to all applicable rates and charges prescribed and promulgated therefor by the Board now in existence or as may be modified or amended, which are hereby incorporated by reference.

14. Owner, its successors and assigns, shall indemnify, defend and save harmless, the Board, its officers, agents, employees and servants (collectively, "Board Parties") from all suits, actions or claims (i) which shall arise from any injuries or damage caused by any break or leak in any service pipe, Private Water Main, other main or connection authorized by this Agreement, except those arising from the negligence or willful misconduct of the Board or any Board Parties, or (ii) that may occur from the furnishing of a supply of water by the Board to the Owner, its tenants, successors and assigns or other persons, firms or corporations served and to be served by the Private Water Main or each Service Connection.

15. Notices. Whenever it shall be required or permitted by this Agreement that notice or demand be given or served by either party to or on the other party, such notice or demand shall be (i) delivered personally, or (ii) mailed by United States mail, certified mail with return receipt requested and postage prepaid, or (iii) sent by recognized overnight courier (such as Federal Express), in each case to the addresses hereinafter set forth. Such notice or demand shall be deemed timely given when delivered personally, or three (3) business days after when deposited in the United States mail, or one (1) business day after any such deposit if by overnight carrier, in each case in accordance with the this paragraph. The addresses of the parties hereto for such mail purposes are as follows, until written notice of such address change has been given:

As to the Board:	Board of Water Commissioners of the City of Saint Paul 1900 Rice Street St. Paul, MN 55113
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As to the Owner: St. Paul Fire and Marine Insurance Company
 c/o Travelers
 385 Washington Street
 St. Paul, MN 55102
 Attn: Real Estate Equity

16. Agreement to Run with Land. This Agreement shall run with the land and burden the Property and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

17. The undersigned represent that they have the power and authority to execute this Agreement on behalf of their respective parties.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day first shown above.

For Owner:

ST. PAUL FIRE AND MARINE INSURANCE COMPANY, a Connecticut corporation

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the _____ of St. Paul Fire and Marine Insurance Company, a Connecticut corporation, on behalf of the corporation.

Signature of person taking acknowledgment

Approved as to form:

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

By: _____
Patrick Shea, General Manager
Saint Paul Regional Water Services

By: _____
Mara Humphrey, President

By: _____
Lisa Veith
Assistant City Attorney

By: _____
Mollie Gagnelius
Secretary

By: _____
John McCarthy
Director, Office of Financial Services

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mara Humphrey, President of the Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mollie Gagnelius, Secretary of the Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by John McCarthy, Finance Director of the City of Saint Paul, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public: _____

EXHIBIT A

Property Legal Description

Lot 1, Block 1, Mendota Heights Business Park 4th Addition, according to the recorded plat thereof, filed and of record with the Dakota County Recorder, Dakota County, Minnesota.

EXHIBIT B-1

Easement Area Legal Description

WATERMAIN EASEMENT DESCRIPTION

A 30.00 foot wide easement over, under and across Lot 1, Block 1, MENDOTA HEIGHTS BUSINESS PARK 4TH ADDITION, Dakota County, Minnesota, the centerline of which is described as commencing at the most northerly corner of said Lot 1; thence southeasterly 40.63 feet along the northeasterly line of said Lot 1, being a curve concave to the northeast, having a radius of 630.81 feet, a central angle of 3 degrees 41 minutes 26 seconds and an assumed chord bearing of South 25 degrees 55 minutes 41 seconds East to the point of beginning of centerline to be described; thence South 73 degree 02 minutes 11 seconds West 87.66 feet to a point hereinafter known as Point A; thence continuing South 73 degrees 02 minutes 11 seconds West 242.76 feet; thence South 29 degrees 38 minutes 34 seconds West 140.58 feet to a point hereinafter known as Point B; thence continuing South 29 degrees 38 minutes 34 seconds West 25.26 feet; thence South 30 degree 57 minutes 49 seconds East 665.87 feet to a point hereinafter known as Point C; thence continuing South 30 degrees 57 minutes 49 seconds East 5.10 feet; thence South 75 degrees 59 minutes 04 seconds East 29.15 feet and said centerline there terminating.

Together with a 30.00 foot wide easement the centerline of which is described as beginning at said Point A; thence South 16 degrees 57 minutes 49 seconds East 32.61 feet and said centerline there terminating.

Together with a 30.00 foot wide easement the centerline of which is described as beginning at said Point B; thence South 60 degrees 21 minutes 26 seconds East 34.98 feet and said centerline there terminating.

Together with a 30.00 foot wide easement the centerline of which is described as beginning at said Point C; thence North 59 degrees 02 minutes 11 seconds East 64.27 feet and said centerline there terminating.

EXHIBIT B-2

Easement Depiction

