

**PERPETUAL DRAINAGE EASEMENT AND
TEMPORARY SURFACE DRAINAGE EASEMENT**

THIS PERPETUAL DRAINAGE EASEMENT AND TEMPORARY SURFACE DRAINAGE EASEMENT (“Agreement”) is made this ___ of _____, 2024 (the “Effective Date”), by and between the **CITY OF SAINT PAUL, MINNESOTA**, a municipal corporation under the laws of the State of Minnesota (the “City”), and **UST HB, LLC**, a Minnesota limited liability company (“UST”).

RECITALS

WHEREAS, the City is the owner of that certain real property located within the Southern Highland Bridge development in the City of St. Paul, Ramsey County, Minnesota, and legally described in Exhibit A attached hereto and incorporated herein by reference (the “City Property”).

WHEREAS, UST is the owner of certain real property adjoining the City Property and legally described on Exhibit B attached hereto and incorporated herein by reference (“Outlot A”).

WHEREAS, UST is also the owner of certain real property adjoining Outlot A and legally described on Exhibit C attached hereto and incorporated herein by reference (“Lot 2, Block 1” and together with Outlot A, the “UST Property”). The City Property and the UST Property shall sometimes hereinafter be referred to as the “Properties”.

WHEREAS, the City Property is being developed as a public park, Outlot A is being developed as wetland mitigation and Lot 2, Block 1 is being developed as a ballfield (“Ballfield Project”), and in conjunction with such development projects, the City and UST desire to establish certain easements for purposes of overland stormwater flow routes and storm drainage facilities, including but not limited to an underground drainage pipe (the “Drainage Improvements”), to benefit the Properties and to be constructed upon certain portions of the UST Property, pursuant to the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and UST hereby agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated into this Agreement as substantive provisions hereof.

2. Easements in favor of the City. Subject to the terms of this Agreement, UST hereby grants and conveys to the City, and establishes the following appurtenant easements for the benefit of the City Property:

- (a) Permanent Surface Drainage Easement over Outlot A. A non-exclusive perpetual easement to facilitate stormwater drainage, in, across, along, over, under and upon the entirety of Outlot A (the “Outlot A Drainage Easement Area”), for surface stormwater drainage purposes, together with the right to enter upon the UST Property with such personnel and equipment to the extent as may be necessary or convenient to inspect, repair, maintain, and replace all drainage facilities serving the City Property (the “Outlot A Drainage Easement”). The Outlot A Drainage Easement runs with the land and benefits the City Property and burdens Outlot A in perpetuity.
- (b) Temporary Surface Drainage Easement over Lot 2, Block 1. A temporary easement as may be necessary or convenient to facilitate stormwater drainage, in, across, along, over, under and upon that certain portion of Lot 2, Block 1 legally described and depicted on the attached Exhibit E (the “Temporary Drainage Easement Area”) for surface stormwater drainage purposes, together with the right to enter upon Temporary Drainage Easement Area with such personnel and equipment to the extent as may be necessary or convenient to inspect, repair, maintain, and replace all drainage facilities serving the City Property (the “City Temporary Surface Drainage Easement”). The City Temporary Surface Drainage Easement shall terminate upon the full completion of the underground Drainage Improvements to be constructed in connection with the Ballfield Project and further described below. Upon the request of either party, the City and UST shall execute a commercially reasonable termination of easement, in recordable form, evidencing the termination of this City Temporary Surface Drainage Easement.
- (c) Permanent Underground Drainage Easement over Lot 2, Block 1. A non-exclusive perpetual easement for stormwater drainage, in, across, along, over, under, and upon that certain portion of Lot 2, Block 1 legally described and depicted on the attached Exhibit F (the “Underground Drainage Easement Area”), for underground drainage purposes, together with the right to enter upon Lot 2, Block 1 with such personnel and equipment as may be necessary to inspect, repair, maintain, and replace the Drainage Improvements (the “City Underground Drainage Easement”). The City

Underground Drainage Easement runs with the land and benefits the City Property in perpetuity. The parties acknowledge and agree that the location of the City Underground Drainage Easement may need to be moved to accommodate the future construction of the underground Drainage Improvements. In such case, the parties agree to amend this Agreement to correctly define the City Underground Drainage Easement after completion of the Ballfield Project and the installation of the Drainage Improvements.

3. Declaration of Easements in favor of UST Property. Subject to the terms of this Agreement, UST hereby declares and establishes the following appurtenant easements for the benefit of Outlot A:

- (a) Permanent Underground Drainage Easement over Lot 2, Block 1. A non-exclusive perpetual easement as may be necessary or convenient to facilitate stormwater drainage, in, across, along, over, under, and upon the Underground Drainage Easement Area, for underground drainage purposes, together with the right to enter upon Lot 2, Block 1 with such personnel and equipment as may be necessary to inspect, repair, maintain, and replace the Drainage Improvements (the “UST Underground Drainage Easement”). The UST Underground Drainage Easement is depicted and legally described on Exhibit F attached hereto, runs with the land, benefits Outlot A, and burdens Lot 2, Block 1.
- (b) Temporary Surface Drainage Easement over Lot 2, Block 1. A temporary easement as may be necessary or convenient to facilitate stormwater drainage, in, across, along, over, under and upon the Temporary Drainage Easement Area for surface stormwater drainage purposes, together with the right to enter upon Lot 2, Block 1 with such personnel and equipment to the extent as may be necessary or convenient to inspect, repair, maintain, and replace all drainage facilities serving Outlot A (the “UST Temporary Surface Drainage Easement”). The UST Temporary Surface Drainage Easement is depicted and legally described on Exhibit E attached hereto, runs with the land, benefits Outlot A, burdens Lot 2, Block 1 and shall terminate upon construction of the Drainage Improvements to be constructed in connection with the Ballfield Project.

4. Construction of Facilities; Temporary Construction Easement. UST, at its sole cost and expense, shall be responsible to construct the Drainage Improvements and shall be responsible for maintaining, repairing, and replacing such improvements constructed or installed in connection with the Drainage Improvements pursuant to this Agreement, all in accordance with any and all applicable laws, ordinances and regulations. UST shall at all times keep such Drainage Improvements in good condition and repair. In addition to those easements granted in Sections 2 and 3 above, UST grants to the City for the benefit of the City Property and declares and establishes to benefit and burden Outlot A, a non-exclusive, temporary construction easement (the “Temporary Easement”), upon, across, in, through and under the UST Property as reasonably necessary to maintain the overland flow easements described in Sections 2(b) and 3(b) above, as may be necessary from time to time (“TCE Work”), along with all ingress, egress and access over,

under, upon, across and through the Properties for the purpose of performing the TCE Work. The Temporary Easement shall commence on the Effective Date and end on completion of the Ballfield Project. UST shall secure all necessary permits and governmental approvals necessary to construct and operate the Drainage Improvements and shall perform its work in compliance with all municipal, federal, state, and local requirements.

5. Change of Grade Prohibited. The City, UST, and their respective grantees, assigns, and transferees shall not change the grade, elevation or contour of any part of the easement areas created in the Agreement without obtaining the prior written consent of the other party, which consent shall not be unreasonably withheld.

6. Modification. This Agreement constitutes the entire agreement between the parties regarding the Easements granted herein and may not be changed without the prior written consent of the City and UST, or the then-current owners of the City Property, or the UST Property, as the case may be.

7. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

8. Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (1) when delivered in person and receipted for on a business day at the address set forth below; (2) on the third business day after being deposited in the U.S. mail, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address listed below; (3) when delivered to the address listed below by any courier service; or (4) on the date of deposit if deposited in the U.S. mail on the same day for delivery to the address listed below:

If to the City: City of Saint Paul (Public Works Department)
City Hall Annex, Suite 1500
25 West Fourth Street
Saint Paul, MN 55012
Attn: Director

Copy to: City of Saint Paul (OFS, Real Estate Section)
City Hall Annex, Suite 1000
25 West Fourth Street
Saint Paul, MN 55012

City of Saint Paul (Safety and Inspections)
Suite 220
375 Jackson Street
Saint Paul, MN 55012
Attn: Director

Office of the City Attorney
400 City Hall, Civil Division

15 W. Kellogg Blvd.
Saint Paul, MN 55102
Attn: Deputy City Attorney

To UST: UST HB, LLC
c/o University of St. Thomas
2115 Summit Ave.
Saint Paul, MN 55105
Attn: Chief Financial Officer

Copy to: University of St. Thomas
2115 Summit Ave., 104 AQU
Saint Paul, MN 55105
Attn: General Counsel

10. Estoppel. Within ten (10) days after request therefor from either party, each party hereto shall deliver an estoppel certificate confirming that this Agreement is in full force and effect, stating whether or not there are any defaults by either party hereto, and such other information as is reasonably requested by a party.

11. Attorneys' Fees. If any party brings an action to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees and court costs, in addition to any other relief granted.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A facsimile copy or an electronic PDF of a signature shall be as binding as an original signature.

13. Exhibits. All exhibits referred to herein and attached hereto shall be deemed part of the Agreement.

14. Governing Law. This Agreement shall be governed by and construed under the laws of Minnesota.

15. Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain unimpaired and shall continue in full force and effect.

(Signature Pages Follow)
(Consents of Mortgagees Follow Signature Pages)

IN WITNESS WHEREOF, The City and UST hereto have executed or have caused this instrument to be executed by their proper officers duly authorized to execute same as of the date and year first above written.

CITY OF SAINT PAUL

By: _____
Name: _____
Its: Mayor or his Designee

Approved as to form:

Assistant City Attorney

By: _____
Name: _____
Its: Director, Office of Financial Services

By: _____
Name: _____
Its: City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

This instrument was executed before me this ____ day of _____, 2024, by _____, the Mayor (or his Designee) of the City of Saint Paul, a Minnesota municipal corporation, on behalf of such City.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

This instrument was executed before me this ____ day of _____, 2024, by _____, the Director of the Office of Financial Services of the City of Saint Paul, a Minnesota municipal corporation, on behalf of such City.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

This instrument was executed before me this ____ day of _____, 2024, by _____, the City Clerk of the City of Saint Paul, a Minnesota municipal corporation, on behalf of such City.

Notary Public

UST HB, LLC,
a Minnesota limited liability company

By: _____
Printed Name: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of UST HB, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

This instrument was drafted by,
And upon recording shall be returned to:
Ryan Companies US, Inc. (AEW)
533 South Third Street, Suite 100
Minneapolis, MN 55415

EXHIBIT A

LEGAL DESCRIPTION OF THE CITY'S PROPERTY

Park, Southern Highland Bridge, according to the recorded plat thereof, Ramsey County, Minnesota.

EXHIBIT B

LEGAL DESCRIPTION OF UST PROPERTY - OUTLOT A

Outlot A, Southern Highland Bridge, according to the plat thereof, Ramsey County, Minnesota

EXHIBIT C

LEGAL DESCRIPTION OF UST PROPERTY - LOT 2, BLOCK 1

Lot 2, Block 1, Southern Highland Bridge, according to the plat thereof, Ramsey County, Minnesota

EXHIBIT D

Reserved.

EXHIBIT E

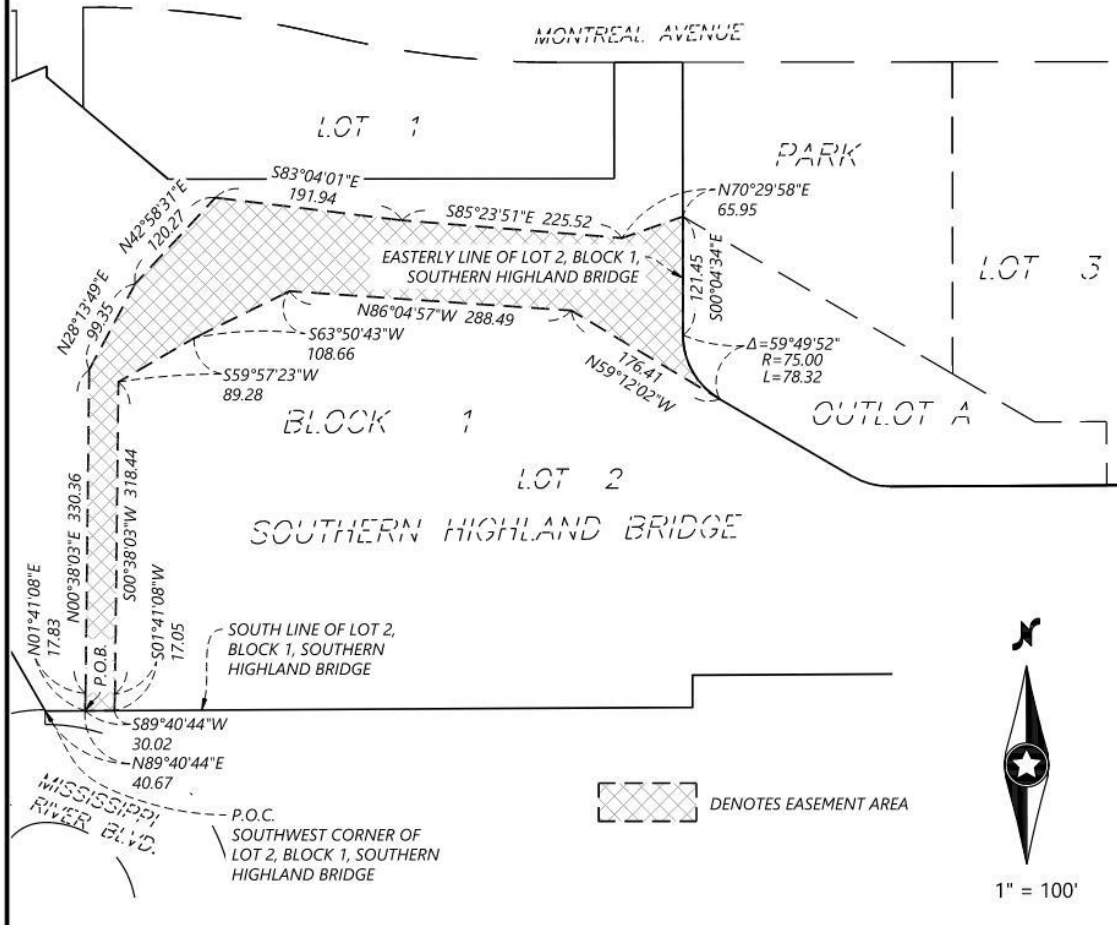
Temporary Drainage Easement Area

EASEMENT DESCRIPTION

A temporary drainage easement over, under and across that part of Lot 2, Block 1, SOUTHERN HIGHLAND BRIDGE, Ramsey County, Minnesota, described as follows:

Commencing at the southwest corner of said Lot 2; thence North 89 degrees 40 minutes 44 seconds East, assumed bearing along the south line of said Lot 2, a distance of 40.67 feet to the point of beginning of the easement to be described; thence North 01 degree 41 minutes 08 seconds East, a distance of 17.83 feet; thence North 00 degrees 38 minutes 03 seconds East, a distance of 330.36 feet; thence North 28 degrees 13 minutes 49 seconds East, a distance of 99.35 feet; thence North 42 degrees 58 minutes 31 seconds East, a distance of 120.27 feet; thence South 83 degrees 04 minutes 01 second East, a distance of 191.94 feet; thence South 85 degrees 23 minutes 51 seconds East, a distance of 225.52 feet; thence North 70 degrees 29 minutes 58 seconds East, a distance of 65.95 feet to the easterly line of said Lot 2; thence South 00 degrees 04 minutes 34 seconds East along said easterly line, a distance of 121.45 feet; thence southeasterly 78.32 feet along a tangential curve, concave to the northeast, having a radius of 75.00 feet and a central angle of 59 degrees 49 minutes 52 seconds; thence North 59 degrees 12 minutes 02 seconds West, not tangent to the last described curve, a distance of 176.41 feet; thence North 86 degrees 04 minutes 57 seconds West, a distance of 288.49 feet; thence South 63 degrees 50 minutes 43 seconds West, a distance of 108.66 feet; thence South 59 degrees 57 minutes 23 seconds West, a distance of 89.28 feet; thence South 00 degrees 38 minutes 03 seconds West, a distance of 318.44 feet; thence South 01 degree 41 minutes 08 seconds West, a distance of 17.05 feet to the south line on said Lot 2; thence South 89 degrees 40 minutes 44 seconds West, along said south line, a distance of 30.02 feet to the point of beginning.

Containing 66,621 sq. ft. more or less.



DESIGNED:	
CHECKED:	MJW
DRAWN:	ACW
FIELD CREW:	
FIELD WORK DATE:	

Westwood
 Phone (952) 937-5150 12701 Whitewater Drive, Suite #300
 Fax (952) 937-5822 Minnetonka, MN 55343
 Toll Free (888) 937-5150 westwoodps.com
 Westwood Professional Services, Inc.

**DRAINAGE
 EASEMENT EXHIBIT
 TEMPORARY**

SHEET NUMBER:
1 OF 1
 DATE: 05/20/2024

EXHIBIT F

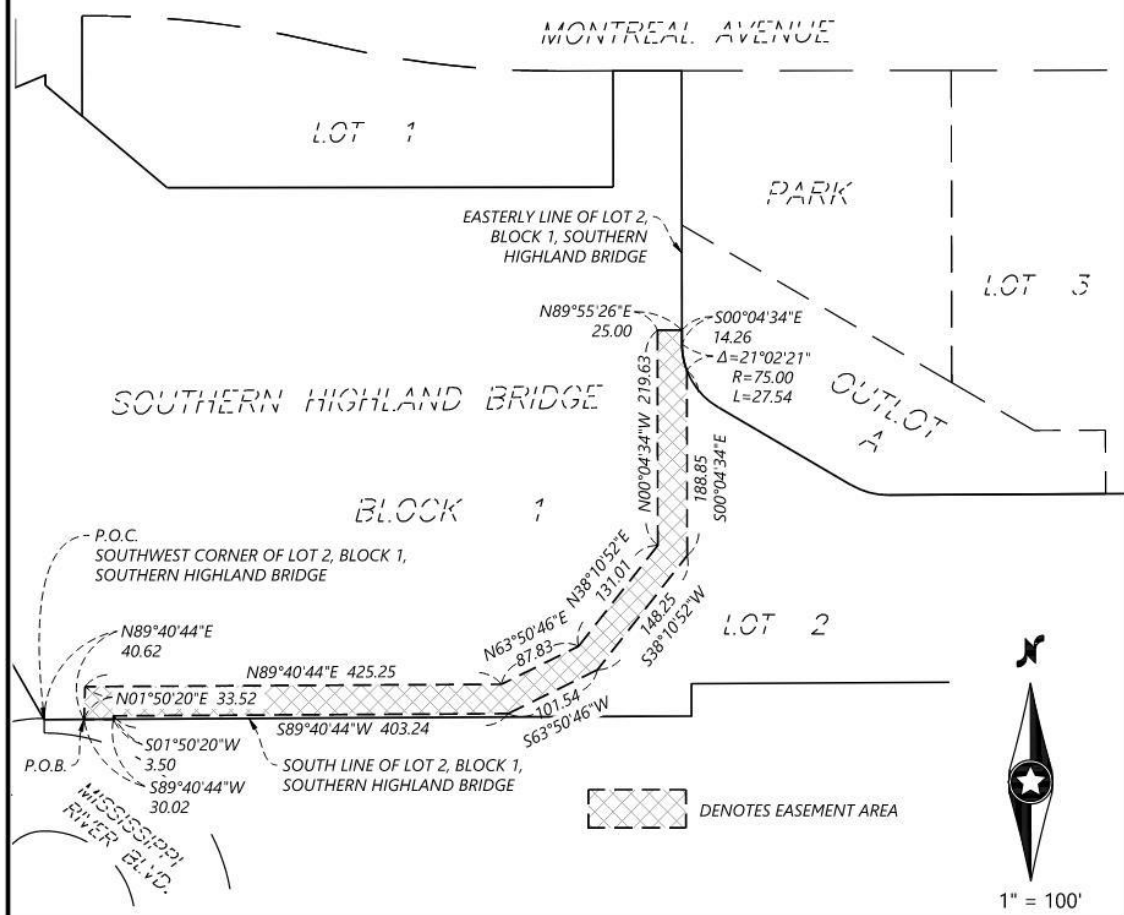
Underground Drainage Easement Area

EASEMENT DESCRIPTION

A drainage easement over, under and across that part of Lot 2, Block 1, SOUTHERN HIGHLAND BRIDGE, Ramsey County, Minnesota, described as follows:

Commencing at the southwest corner of said Lot 2; thence North 89 degrees 40 minutes 44 seconds East, assumed bearing along the south line of said Lot 2, a distance of 40.62 feet to the point of beginning of the easement to be described; thence North 01 degree 50 minutes 20 seconds East, a distance of 33.52 feet; thence North 89 degrees 40 minutes 44 seconds East, a distance of 425.25 feet; thence North 63 degrees 50 minutes 46 seconds East, a distance of 87.83 feet; thence North 38 degrees 10 minutes 52 seconds East, a distance of 131.01 feet; North 00 degrees 04 minutes 34 seconds West, a distance of 219.63 feet; North 89 degrees 55 minutes 26 seconds East, a distance of 25.00 feet to the easterly line of said Lot 2; thence South 00 degrees 04 minutes 34 seconds East along said easterly line, a distance of 14.26 feet; thence southeasterly a distance of 27.54 feet along a tangential curve, concave to the northeast, having a radius of 75.00 feet and a central angle of 21 degrees 02 minutes 21 seconds; thence South 00 degrees 04 minutes 34 seconds West, not tangent to the last described curve, a distance of 188.85 feet; thence South 38 degrees 10 minutes 52 seconds West, a distance of 148.25 feet; thence South 63 degrees 50 minutes 46 seconds West, a distance of 101.54 feet; thence South 89 degrees 40 minutes 44 seconds West, a distance of 403.24 feet; thence South 01 degree 50 minutes 20 seconds West, a distance of 3.50 feet to the south line on said Lot 2; thence South 89 degrees 40 minutes 44 seconds West, along said south line, a distance of 30.02 feet to the point of beginning.

Containing 56,596 sq. ft. more or less.



DESIGNED:	
CHECKED:	MJW
DRAWN:	ACW
FIELD CREW:	
FIELD WORK DATE:	

Westwood

Phone (952) 937-5150 12701 Whitewater Drive, Suite #300
 Fax (952) 937-5822 Minnetonka, MN 55343
 Toll Free (888) 937-5150 westwoodps.com
 Westwood Professional Services, Inc.

**DRAINAGE
 EASEMENT EXHIBIT
 FINAL**

0033376V-ES33-Drainage Esmt Perm.dwg

SHEET NUMBER:
1 OF 1

DATE: 05/20/2024