

ENCROACHMENT EASEMENT AGREEMENT

THIS ENCROACHMENT EASEMENT AGREEMENT (“**Agreement**”) is made and entered into as of the ___ day of July, 2017, by 1745 UNIVERSITY LLC, a Minnesota limited liability company (“**1745**”), and THE CITY OF SAINT PAUL, MINNESOTA (the “**City**”).

WHEREAS, 1745 owns certain real property legally described on **Exhibit A** attached hereto, having an address of 1745 University Avenue West, Saint Paul, Minnesota 55104 (the “**1745 Property**”), together with certain rights and interests appurtenant thereto; and

WHEREAS, the City owns certain real property commonly known as “Dickerman Park,” a portion of which adjoins the 1745 Property along the southerly boundary of the 1745 Property (the “**City Property**”); and

WHEREAS, window wells, building lighting fixtures, building steps, and access ramp, serving the 1745 Property (the “**Encroachments**”) encroach onto the City Property; and

WHEREAS, the parties desire to memorialize their agreement with respect to the Encroachment.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the 1745 agree as follows:

1. **Incorporation of Recitals.** The Recitals are incorporated herein by this reference.
2. **Grant of Easement.** The City hereby grants, conveys and transfers to 1745 an exclusive easement (the “**Easement**”) over that portion of the City Property legally described on **Exhibit B** attached hereto (the “**Easement Area**”) to permit encroachment of building entrance steps, a building basement area lying directly beneath the building entrance steps, window wells, access ramp, sidewalk, grass, plants, bushes and/or similar vegetation, and a building awning attached to the building and covering the entrance step area (collectively, the “**Encroaching Improvements.**”) as well as for the general maintenance of the building and improvements, on, over, across and through the Easement Area. The Easement is appurtenant to and for the benefit of the 1745. 1745, its successors and assigns, as the owner of the 1745 Property, shall not acquire any right, title or interest in or to the City Property or any portion thereof affected by the Encroachments, except the right to maintain the Encroachments and the performance of building and improvement maintenance within the Easement Area in accordance with the terms and conditions of this Agreement.
3. **Maintenance.** 1745, at no cost or expense to the City, shall maintain and repair the Encroaching Improvements. In performing the foregoing obligations, the owner of the 1745 Property will take reasonable measures to minimize the resulting impact upon the use and enjoyment of the City Property.

4. Termination. In the event that the building located on the 1745 Property is demolished or otherwise destroyed, this easement shall automatically terminate.
5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
6. Covenants to Run with Land. This Agreement, and any covenants, conditions, restrictions, rights and obligations set forth in this Agreement run with the land and create equitable servitudes in favor of the real property benefited thereby, and shall inure to the benefit of and be binding upon the owners of the City Property and the 1745 Property, their heirs, personal representatives, successors and assigns, and upon any person acquiring either such property, or any portion thereof, or any interest therein (including a tenancy interest), whether by operation of law or otherwise.
7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if both parties hereto had signed the same signature page.

[Signature Page(s) to follow]

IN WITNESS WHEREOF, the City and 1745 have executed this Agreement regarding Encroachments as of the date first above written.

CITY:

THE CITY OF SAINT PAUL, MINNESOTA

By: _____
Mayor

Printed Name: _____

By: _____
Finance Director

Printed Name: _____

By: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Christopher B. Coleman, Todd Hurley and Shari Moore, as Mayor Finance Director and City Clerk, respectively, on behalf of the City of Saint Paul, Minnesota.

Notary Public

Approved as to Form:

Assistant City Attorney

City of St. Paul Signature Page to Encroachment Easement

1745:

1745 UNIVERSITY LLC,
a Minnesota limited liability company

Scott Coggins
Its: President

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____ 2017, by Scott Coggins, as President of 1745 University LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

1745 University LLC Signature Page to Encroachment Easement

EXHIBIT A

Legal Description of 1745 Property

Parcel 1: Lot F except that part lying Northerly and adjoining Lot 6 and the Easterly 34.28 feet of Lot 7, being the East 89.98 feet of said Lot F; Lot 7 except the Easterly 34.28 ft thereof; Lot 8; all in Block 1, Dickerman's Rearrangement, Ramsey County, Minnesota.

Torrens Property.

Parcel 2: Lots 9 & 10, Block 1, and all of Lot 11, Block 2, Dickerman's Rearrangement, except the following parts of said Lot 11:

- a) that part lying East of the West line of the Easterly 34.28ft of Lot 7, Block 1, Dickerman's Rearrangement extended Northerly, being approximately the Easterly 76ft of said Lot 11.
- b) The Northerly 20ft front and rear of Lot 11.

Ramsey County, Minnesota.

EXHIBIT B

Easement Area

That part of University Avenue described as follows: Beginning at the Southwest corner of Lot 10, Block 1, Dickerman's Re-Arrangement, Ramsey County, Minnesota; thence southerly along the southerly extension of the West line of said Lot 10, a distance of 12.0 feet; thence easterly, parallel with the southerly line of said Lot 10, a distance of 37.5 feet; thence deflecting to the right, 90 degrees, a distance of 9.0 feet; thence deflecting to the left, 90 degrees, a distance of 64.0 feet; thence deflecting to the left, 66 degrees, a distance of 9.0 feet; thence deflecting to the right, 66 degrees, a distance of 19.0 feet; thence deflecting to the left, 90 degrees, a distance of 12.78 feet, to the South line of said Block 1; thence westerly, along the southerly line of said Block 1, to the point of beginning.