

## **DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS**

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this “Declaration”) is made effective as of \_\_\_\_\_, 202\_\_\_\_, by Sunrise Banks, National Association, a national banking association (the “Declarant”).

### WITNESSETH:

A. Declarant is the fee owner of two contiguous parcels of real property located in the City of St. Paul, County of Ramsey, State of Minnesota, legally described as Lot 1, Block 1, Reiling Heights (“Lot 1”) and Lot 2, Block 1, Reiling Heights (“Lot 2”). Lot 1 and Lot 2 are collectively referred to herein as the “Parcels” and each is sometimes referred to herein individually as a “Parcel.”

B. Declarant intends to sell one or more of the Parcels and desires to establish of record certain easements, covenants and restrictions of use.

NOW, THEREFORE, Declarant hereby declares that the Parcels shall be held, transferred, sold, conveyed, occupied and used subject to the following easements, covenants and restrictions, which shall run with the Parcels and be binding on all parties having any right, title or interest in the Parcels or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (as defined below) thereof.

#### 1. Easements.

(a) Access; Driveway. Declarant hereby grants and declares for the benefit of Lot 1 and Lot 2, their respective Owners and such Owner’s tenants, employees, contractors, customers, invitees and agents, a perpetual non-exclusive easement for vehicular and pedestrian ingress and egress purposes over and across the driveway areas now or hereafter constructed on the Parcels (the “Access Easement Area”). The Owners may modify the existing driveway areas on their respective Parcels but shall always provide access to the other Owner over their respective Parcel to a public right of way. Except as may be reasonably necessary, from time to time, to perform Maintenance on the Access Easement Area, no obstructions which would prevent, restrict, or otherwise inhibit the maneuvering of vehicles or pedestrians over any portion of the Access Easement Area shall be erected, condoned, or permitted by the Owner of any portion of the Access Easement Area, nor shall any other conduct be permitted which would in

any manner restrict the rights of the respective Owner of each benefited Parcel, to fully utilize the Access Easement Area created hereby for the purposes permitted herein. There shall be no parking of vehicles in the Access Easement Area.

(b) Storm Water Drainage. Declarant hereby grants and declares for the benefit of Lot 1 and Lot 2 a perpetual non-exclusive easement for purposes of using, maintaining, repairing, replacing and removing the underground storm water drainage lines and related equipment (the “Drainage Equipment”) for the mutual benefit of Lot 1 and Lot 2 (the “Drainage Easement”) to allow surface storm water to drain through the Drainage Equipment into the retaining pond area located on Lot 1 (the “Retaining Pond”) and to the public storm sewer system. If the Drainage Easement herein granted interferes with any subsequent development of Lot 1 or Lot 2, then the applicable Owner will, at its expense, remove the existing Drainage Equipment and install such other drainage improvements or equipment as may be necessary to maintain the existing overall storm water drainage rate and prevent surface water from draining from its respective Parcel onto the other Parcel, and the Drainage Easement will be terminated.

(c) Sanitary Sewer. Declarant hereby grants and declares for the benefit of Lot 1 a perpetual non-exclusive easement for purposes of using an underground sanitary sewer line and related equipment for the benefit of the Lot 1 (the “Sewer Easement”) over, under and across Lot 2 in the area generally shown on Exhibit A (the “Sewer Easement Area”). If the Sewer Easement herein granted interferes with any subsequent development of Lot 2, then the Owner of Lot 1 will, at its expense, relocate that portion of the underground sanitary sewer line and related equipment which interferes with the development of Lot 2 to either its own property, or as may be mutually agreed upon an alternative location on Lot 2, and this Declaration will either be amended to reflect the amended Sewer Easement Area or terminated if no longer applicable.

(d) Water Lines. Declarant hereby grants and declares for the benefit of Lot 1 a perpetual non-exclusive easement for purposes of using an underground water line and related equipment for the benefit of the Lot 1 (the “Water Easement”) over, under and across Lot 2 in the area generally shown on Exhibit A (the “Water Line Easement Area”). If the Water Easement herein granted interferes with any subsequent development of Lot 2, then the Owner of Lot 1 will, at its expense, relocate that portion of the underground water line and related equipment which interferes with the development of Lot 2 to either its own property, or as may be mutually agreed upon an alternative location on Lot 2, and this Declaration will either be amended to reflect the amended Water Line Easement Area or terminated if no longer applicable.

(e) Fiber and Telecommunications Utilities. Declarant hereby grants and declares for the benefit of Lot 1 a perpetual non-exclusive easement over, under and across Lot 2 for purposes of constructing, installing, maintaining, expanding, repairing, replacing and removing fiber optics, cabling and other telecommunications lines and equipment, or similar utilities, as the Owner of Lot 1 may deem necessary now or in the future in the area described on Exhibit A (the “Fiber and Telecommunications Easement Area”).

(f) Monument Sign. Declarant hereby grants and declares for the benefit of Lot 1 the right to maintain, repair and replace its existing signage on the monument sign on Lot 2 (the "Monument Sign") and to access the Monument Sign over, under and across Lot 2. If the Owner of Lot 2 hereafter elects to replace the Monument Sign, it shall provide the Owner of Lot 1 the same or similar signage on the replacement monument sign.

2. Maintenance of Easement Areas. Each Owner of any portion of the Access Easement Area, Drainage Equipment, Retaining Pond, Sewer Easement Area, Water Line Easement Area and Telecommunications Easement Area (collectively, the "Easement Areas" and individually the "Easement Area") shall perform maintenance, repairs and replacements (collectively the "Maintenance"), from time to time, on or to that portion of the Easement Areas owned by such Owner to keep the Easement Area in good condition and repair, clean and free from rubbish and other hazards, and generally equal in quality to similar first class facilities located in the Minneapolis / St. Paul metropolitan area.

Maintenance shall include without limitation snow and ice removal, sanding, sweeping, marking and patching, as may be reasonably necessary to ensure the safe and unimpeded maneuvering of vehicles over any portion of the Access Easement Area and the safe passage of pedestrians over the Access Easement Area, and otherwise as such Owner reasonably and in good faith deems necessary or advisable. If any such Maintenance would require the non-usage of the Access Easement Area (such as seal coating) the same shall be performed so as not to prevent such usage for a period in excess of twenty-four (24) hours and then shall be done only after a minimum of ten (10) days notice.

The Owner of Lot 1 shall perform all Maintenance required for the Retaining Pond. The Owner of Lot 2 shall reimburse the Owner of Lot 1 upon demand for one third (33%) of the Maintenance Costs of the Retaining Pond, including without limitation the monthly inspections and annual reporting requirements.

Except as expressly provided herein, unless otherwise agreed between the Owners, all costs associated with the performance of any Maintenance shall be borne by the Owner of that portion of the Easement Area upon which such Maintenance is conducted. Further, if an Owner damages or otherwise alters the improvements of another Owner, the Owner causing such damage or alteration shall either (i) immediately repair or restore the damage or alteration at its sole cost and expense to the original quality and condition, or (ii) upon demand of the other Owner, reimburse the costs incurred by such Owner to perform such restoration of such Owner's property.

3. Restrictions on Use. No portion of Lot 2 may be operated as, or occupied by, a financial institution, bank, credit union, or payday lender (as such terms are defined by the Owner of Lot 1), without the prior written approval of the Owner of Lot 1, which may be withheld in its sole discretion. Land Bank Twin Cities, Inc. will not be prohibited from using Lot 2 for its current operations, but Land Bank Twin Cities, Inc. will not offer transactional based deposit accounts for consumer or business customers. The Owner of Lot 1 shall have the immediate right to an injunction upon any violation of the foregoing restrictions. The Owner of Lot 2 shall be required to reimburse the Owner of Lot 1 for any and all damages and expenses

related to any violation of the foregoing restrictions, including without limitation attorneys fees, expert fees and court costs.

4. Owner Defined. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel subject to the Declaration, but shall not mean or refer to the mortgagee of any such Parcel unless and until such mortgagee has acquired title pursuant to foreclosure (or deed in lieu of foreclosure) of said mortgage and the period within which the fee owner may redeem from such foreclosure has terminated. Where any Parcel is being sold by the fee owner to a contract vendee who is entitled to possession of the Parcel, the contract vendee shall be considered the “Owner” of such Parcel.

5. Permitted Exceptions; Subordination. The easements granted pursuant to this Declaration are conveyed and are subject to any and all restrictions, easements, utilities and other matters of record affecting the Parcels. Any mortgages now or hereafter obtained by any Owner secured in whole or in part by any portion of the Parcels shall be subordinate to this Declaration.

6. Default; Remedies. In the event an Owner (the “Defaulting Owner”) fails to perform its obligations under this Declaration or violates any of its provisions, the other Owner (the “Non-Defaulting Owner”) shall be entitled to:

(a) Self Help. The Non-Defaulting Owner may perform, or cause to be performed, such obligation on behalf of the Defaulting Owner if the Defaulting Owner fails to perform such obligation within thirty (30) days after receiving written notice from such Non-Defaulting Owner (except in the case of an emergency, in which case the Non-Defaulting Owner may immediately perform such obligation), and the costs and expenses for such activity shall be chargeable to and payable by the Defaulting Owner to such Non-Defaulting Owners. If any such costs and expenses are not paid by the Defaulting Owner within thirty (30) days after invoice therefor by, or on behalf of, the Non-Defaulting Owner (the “Delinquency Date”), such costs and expenses shall become delinquent and shall, together with interest thereon and all costs of collection thereof, constitute and become a continuing lien on the Parcel owned by the Defaulting Owner. All costs and expenses owing hereunder shall bear interest from and after the Delinquency Date at the highest rate permitted under applicable law or ten percent (10%), whichever is less.

(b) Money Damages. The Non-Defaulting Owner may also bring an action against the Defaulting Owner to pay such damages, costs and expenses or to foreclose such lien by suit in the manner provided for mechanic’s liens, and in such event there shall be added to the amount owed by the Defaulting Owner, all costs of collection, including without limitation reasonable attorneys’ fees and costs actually incurred in connection therewith.

(c) Injunction. This Declaration may also be enforced against any Owner by legal or equitable action (including without limitation injunction, restraining order or specific performance) in Ramsey County District Court. In the event any such action is commenced, the Non-Defaulting Owner shall be entitled to recover its, his or her costs and expenses incurred in such action, specifically including reasonable attorneys’ fees, against the Defaulting Owner.

(d) Non-Exclusive Remedies; No Waiver. The Non-Defaulting Owner will also have such remedies as may be available at law or equity and the foregoing are not intended to be the exclusive remedies available under this Declaration. Any failure to enforce any covenant, term of conditions contained herein shall in no event be deemed to be a waiver of the right to do so thereafter nor of any right to enforce any other term hereof.

7. Encumbrances. No Owner shall suffer or permit anything to be done that will cause any Parcel not owned by such Owner to become encumbered by any mechanic's lien or similar lien, charge or claim. If any mechanic's lien or similar charge or claim is filed against a Parcel, due to another Owner's alleged request for labor or materials, such Owner shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge.

8. Insurance. Each Owner shall at its own expense, procure and maintain general public liability insurance in commercially reasonable amounts against claims for bodily injury, death and property damage occurring on, or from the use of, the Easement Areas on such Owner's Parcel. Each Owner will provide evidence of the insurance required to be maintained hereunder within ten (10) days of request by the other Owner.

9. Indemnification. Except to the extent insured in accordance with applicable worker's compensation or other similar laws, each Owner (the "Indemnifying Owner") shall indemnify and hold harmless all other Owners (the "Indemnified Owners") from and against all liabilities, damages, claims, costs and other similar expenses which may be incurred by the Indemnified Owners by reason of bodily injury or death of any person or damage to or destruction or loss of any property arising on or from the use by the Owner and its tenants, subtenants, agents, employees, licensees or invitees of that portion of the Easement Areas owned by the Indemnifying Owner, except where, and to the extent that, such liabilities, damages, claims, costs or other similar expenses arise or result, in whole or in part, from the gross negligence or willful misconduct of one or more of the Indemnified Owners.

10. Enforcement of Easements, Covenants and Restrictions. The easements, covenants and restrictions set forth herein shall be, and they are hereby granted solely for the benefit of, and shall be enforceable by, any of the Owners of the Parcels, their heirs, successors, and assigns. No other person or entity shall have any rights to enforce any of the restrictions herein set forth.

11. Attorneys' Fees. If any Owner reasonably incurs costs in order to enforce any provision of this Declaration, the prevailing Owner shall be reimbursed by the other for all reasonable costs so incurred, including reasonable attorneys' fees and costs.

12. Non-Merger. The ownership of more than one Parcel by the same Owner or by an Owner and an affiliate entity of such Owner, shall not create a merger of title, estate, or other merger, including any merger of the dominant and servient estate with respect to the easements granted in this Declaration, and shall therefore not terminate any of the easements, covenants or other terms or provisions of this Declaration as they apply to the Parcels, and all such easements, covenants, and other terms and provisions shall remain in full force and effect regardless of any of the aforesaid common ownerships now or hereafter existing of any Parcels.

13. Running of Benefits and Burdens. All provisions of this Declaration shall run with the land and shall inure to the benefit of and be binding upon each Owner of a Parcel and their respective successors and assigns, including any mortgagees or subsequent holders of mortgages. The Parcels shall be held, sold and conveyed subject to the easements, covenants, and restrictions set forth in this Declaration. Said easements, covenants, and restrictions shall constitute covenants running with the land to benefit and burden the Parcels, as set forth herein, irrespective of the manner in which title to any portion of the Parcels may be subsequently divided and/or conveyed.

14. Reserved Rights. The Owners reserve the right to occupy, use and improve their respective Parcels for all purposes not inconsistent with, nor interfering with, the rights granted to the other Owner herein and reserve the right to maintain, construct, modify and otherwise reconfigure their respective Parcel so long as such modifications are not inconsistent with the rights granted herein.

15. Amendments. No amendment, modification or waiver of any condition, provision or term of this Declaration shall be valid or of any effect unless made in writing and signed by the parties to be bound thereby or their duly authorized representative(s) and recorded with the Ramsey County Registrar of Titles.

16. Headings. The headings contained in this Declaration are for notice purposes only. In all instances, reference should be made to the specific terms and provisions hereof.

17. Severability. If any provision or application of this Declaration is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Declaration shall be construed as if the unlawful or unenforceable provisions or application had never been contained herein or prescribed hereby.

18. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcels to the general public, for the general public or for any public use or purpose whatsoever, it being the intention and understanding of the Declarant that this Agreement shall be strictly limited to and for the purposes expressed in this Agreement, and for no other purpose.

19. Governing Law. It is agreed that this Declaration was made and executed in the State of Minnesota and that all of the terms and provisions of this Declaration shall be governed by and controlled solely by the laws of the State of Minnesota.

*[Remainder of page intentionally left blank.]*

**IN WITNESS WHEREOF**, this Declaration has been executed on the day and year first set forth above.

**DECLARANT**

**SUNRISE BANKS, NATIONAL  
ASSOCIATION**

By: \_\_\_\_\_

Its:

STATE OF MINNESOTA    )  
                                      )  ss  
COUNTY OF \_\_\_\_\_ )

The foregoing was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
202\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of Sunrise Banks,  
National Association, a national banking association, on behalf of the association.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:  
Ballard Spahr LLP (LLK)  
2000 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402

*[Signature page to Declaration of Easements, Covenants and Restrictions]*

### CONSENT OF MORTGAGEE

The undersigned, holder of that certain mortgage executed by Sunrise Banks, National Association, dated \_\_\_\_\_, and filed on \_\_\_\_\_, as Document No. \_\_\_\_\_ with the Ramsey County Registrar of Titles (the "Mortgage"), hereby consents to the foregoing Declaration and agrees that the Mortgage shall be subordinate to the foregoing Declaration and the easements described therein. Except as expressly set forth above, the Mortgage shall remain unmodified and in full force and effect.

By: \_\_\_\_\_

STATE OF MINNESOTA )  
   ) ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, on behalf of \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

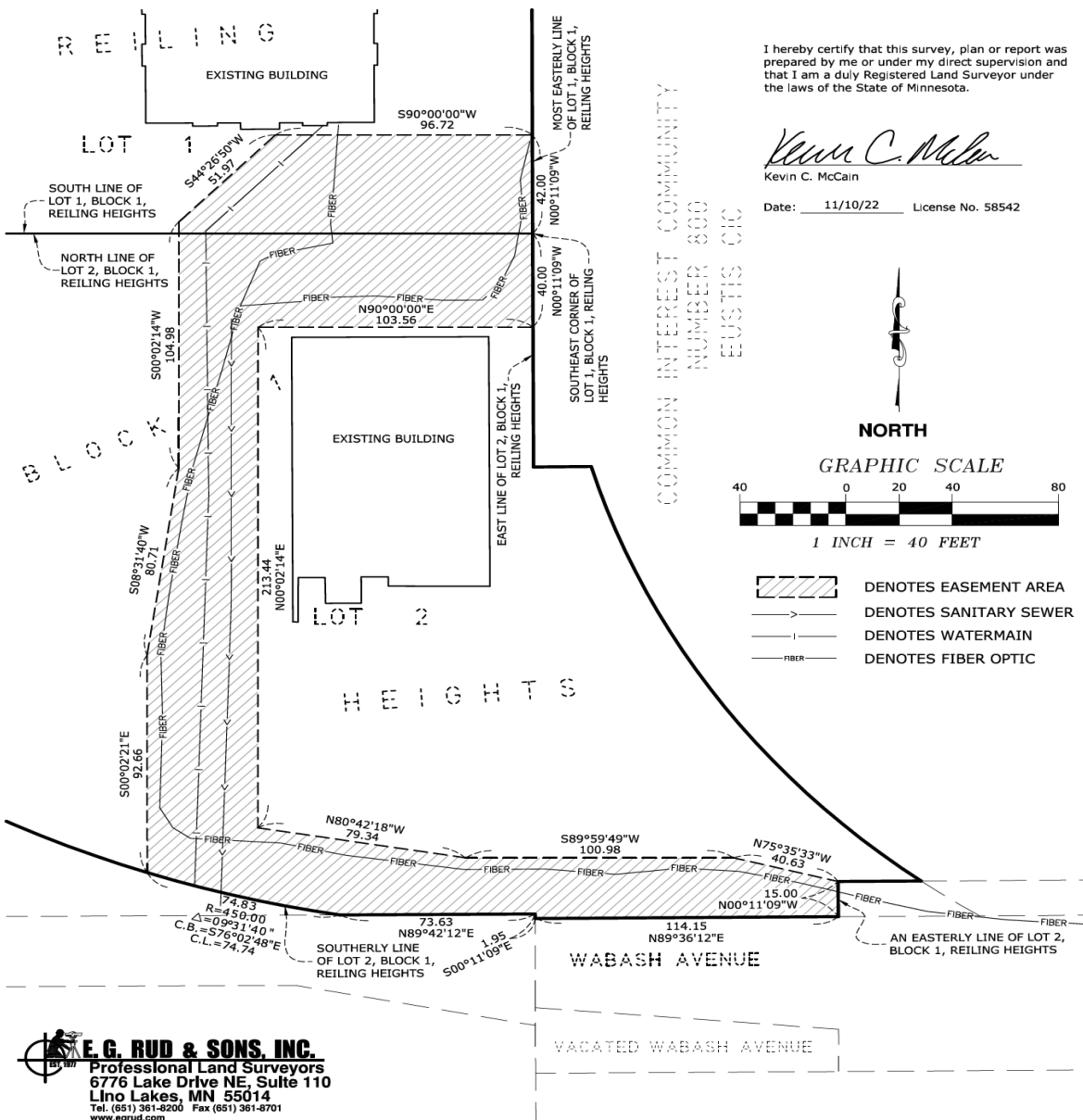


# EXHIBIT A

## Description / Depiction of Sewer Easement Area, Water Line Easement Area and Fiber and Telecommunications Easement Area

An easement lying over, under, and across that part of Lot 1 and Lot 2, Block 1, REILING HEIGHTS, according to the recorded plat thereof, Ramsey County, Minnesota, described as follows:

Beginning at the Southeast corner of said Lot 1; thence North 00 degrees 11 minutes 09 seconds West, assumed bearing, along the most easterly line of said Lot 1, a distance of 42.00 feet; thence South 90 degrees 00 minutes 00 seconds West, 96.72 feet; thence South 44 degrees 26 minutes 50 seconds West, 51.97 feet; thence South 00 degrees 02 minutes 14 seconds West, 104.98 feet; thence South 08 degrees 31 minutes 40 seconds West, 80.71 feet; thence South 00 degrees 02 minutes 21 seconds East, 92.66 feet to the southerly line of said Lot 2; thence southeasterly 74.83 feet along a non-tangential curve concave to the Northeast having a radius of 450.00 feet, a central angle of 09 degrees 31 minutes 40 seconds, a chord bearing of South 76 degrees 02 minutes 48 seconds East, and chord length of 74.74 feet; thence North 89 degrees 42 minutes 12 seconds East, continuing along said southerly line of Lot 2 and not tangent to the last described curve, 73.63 feet; thence South 00 degrees 11 minutes 09 seconds East, continuing along said southerly line of Lot 2, a distance of 1.95 feet; thence North 89 degrees 36 minutes 12 seconds East, continuing along said southerly line of Lot 2, a distance of 114.15 feet to an easterly line of said Lot 2; thence North 00 degrees 11 minutes 09 seconds West, along said easterly line of Lot 2, a distance of 15.00 feet; thence North 75 degrees 35 minutes 33 seconds West, 40.63 feet; thence South 89 degrees 59 minutes 49 seconds West, 100.98 feet; thence North 80 degrees 42 minutes 18 seconds West, 79.34 feet; thence North 00 degrees 02 minutes 14 seconds East, 213.44 feet; thence North 90 degrees 00 minutes 00 seconds East, 103.56 feet to the East line of said Lot 2; thence North 00 degrees 11 minutes 09 seconds West, along said East line of Lot 2, a distance of 40.00 feet to said point of beginning.



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