

EXHIBIT A

SECOND AMENDMENT TO

the

**HOT AND CHILLED WATER SERVICE AGREEMENT
PORT AUTHORITY OF THE CITY OF SAINT PAUL
ENERGY PARK**

by and between

**PORT AUTHORITY OF THE CITY OF ST. PAUL, a Municipal
Corporation and Body Politic, (“Authority”)**

and

U.S. Bank National Association (“Customer”)

For the

U.S. Bank Operations Center

SECOND AMENDMENT TO THE HOT AND CHILLED WATER SERVICE AGREEMENT

THIS SECOND AMENDMENT TO THE HOT AND CHILLED WATER SERVICE AGREEMENT (this "Amendment") amends that particular Hot and Chilled Water Service Agreement by and between PORT AUTHORITY OF THE CITY OF ST. PAUL, a Municipal Corporation and Body Politic, ("Authority") and **U.S. Bank National Association** ("Customer") for the Customer building called the **U.S. Bank Operations Center** located at **1200 Energy Park Drive** (the "Agreement") as amended by the First Amendment (the "First Amendment"). This Amendment shall only be effective upon Authority's delivery of a "Notice of Effectiveness" pursuant to the provisions of paragraph 15 below; subject to the more particular terms thereof, the "Effective Date" of this Amendment shall be established pursuant to the terms thereof.

RECITALS:

WHEREAS, the Authority is engaged in the business of owning and operating a Central Energy Plant and Distribution System to heat and cool water and making water which it has heated and water which it has cooled available to Customers located in St. Paul Energy Park to heat and cool Customer's buildings;

WHEREAS, the Customer and Authority have previously amended the Agreement through the First Amendment to facilitate the financing of the upgrades to the Central Energy Plan and the Distribution System in order to provide year-round heating and cooling; and

WHEREAS, by executing this Amendment, Customer and Authority hereto agree to amend certain dates in the First Amendment to accommodate a later effective date to be set by the Port Authority, amend certain provision of the Agreement, and amend Exhibits of the Agreement for the year-round heating and cooling service and Distribution System upgrades;

WHEREAS, the Hot and Chilled Water Service Agreement amendments are substantially based on upgrading the Central Energy Plan and the Distribution System and the financing date for the upgrade has been postponed and as yet to be determined;

NOW, THEREFORE, in consideration of the foregoing Recitals, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by execution hereof, the parties agree to amend the Agreement as follows:

1. Definitions: The following terms shall have these meanings for purposes of this Agreement.

- (a) New Rate Schedule Date (NRSD): the date which is subsequent to the financing of the upgrades to the Central Energy Plant and to the Distribution System and represents the starting date of the new Rate Schedule which will be effective not less than 70 days after providing notice to the City of Saint Paul of the new Rate Schedule pursuant to the Franchise Ordinance.

- (b) Old Rate Schedule Date (ORSD): the date representing the ending date of the currently filed Rate Schedule which is the day immediately prior to the effective date of the NRSD.

2. Paragraph 1 of the First Amendment modified Section 4(f) Heating Demand Less than Contract Heating Demand (CHD) for On-Line Customers. As amended, Section 4(f), last sentence, contained a January 1, 2012 start date. Section 4(f), last sentence, shall now be amended as follows:

The minimum for all On-Line Customers CHD from the NRSD through September 30, 2036, shall be 90% of the On-Line Customers CHD as of a date to be specified by the Authority.

3. Paragraph 2 of the First Amendment modified Section 4 Heating Demands. Certain dates contained in those amendments shall be changed to a later date as specified by the Authority. Accordingly, Sections 4(i) and 4(j), shall now be amended as follows:

4(i). Contract Heating Demand for On Line Customers from January 1, 2011 through September 30, 2015.

Subject to the provisions of Section 4(e) Amendment of CHD, the Customer's Contract Heating Demand (CHD) from **January 1, 2012** to **the ORSD** shall be **4.200 MMBTU/Hour**, and from **the NRSD** to **September 30, 2015**, shall be set at 50% of the CHD in effect immediately prior to **the NRSD**, and 50% of the Actual Heating Demand (AHD) from **December 1, 2006** through **December 31, 2011**. For the Customer, this shall be **3.415 MMBTU/Hour**.

4(j). Contract Heating Demand for On Line Customers from October 1, 2015 through September 30, 2024.

Subject to the provisions of Section 4, the Customer's Contract Heating Demand (CHD) from October 1, 2015 through September 30, 2024, shall be set based on the CHD in effect immediately prior to **the NRSD**, and the Extrapolated Actual Heating Demand (EAHD) between October 1, 2013 and September 30, 2024, and established using the following percentages for the given time periods:

<u>Time Period</u>	<u>CHD Prior to Jan. 1, 2012</u>	<u>EAHD</u>
October 1, 2015 to September 1, 2016	45%	55%
October 1, 2016 to September 1, 2017	40%	60%
October 1, 2017 to September 1, 2018	35%	65%
October 1, 2018 to September 1, 2019	30%	70%
October 1, 2019 to September 1, 2020	25%	75%
October 1, 2020 to September 1, 2021	20%	80%
October 1, 2021 to September 1, 2022	15%	85%
October 1, 2022 to September 1, 2023	10%	90%

October 1, 2023 to September 1, 2024

5%

95%

4. Paragraph 3 of the First Amendment modified Section 5(f) Cooling Demands Less Than Contract Cooling Demand for On Line Customers. As amended, Section 5(f), last sentence, contained a January 1, 2012 start date. Section 5(f), last sentence, shall now be amended as follows:

The aggregate minimum CCD for all On-Line Customers from the NRSD through September 30, 2036, shall be 90% of the aggregate CCD for all On-Line Customers as of January 1, 2012.

5. Paragraph 4 of the First Amendment modified Section 5 Cooling Demands. Certain dates contained in those amendments shall be changed to a later date as specified by the Authority. Accordingly, Sections 5(i) and 5(j), shall now be amended as follows:

5(i). Contract Cooling Demand for On-Line Customers from January 1, 2011 through September 30, 2015.

Subject to the provisions of Section 5(e) Amendment of CCD, the Customers Contract Cooling Demand (CCD) from **January 1, 2012** through **the ORDS** shall be **6.360 MMBTU/Hour**, and from **the NRSD** to September 30, 2015, shall be set at 50% of the CCD in effect immediately prior to **the NRSD**, and 50% of the Actual Cooling Demand (ACD) from **June 1, 2007** through **September 30, 2011**. For the Customer, this shall be **6.180 MMBTU/Hour**.

5(j). Contract Cooling Demand for On-Line Customers from October 1, 2015 through September 30, 2024.

Subject to the provisions of Section 4, the Customers Contract Cooling Demand (CCD) from October 1, 2015 through September 30, 2024, shall be set based on the CCD in effect immediately prior to **the NRSD**, and the Actual Cooling Demand (ACD) after October 1, 2013 and September 30, 2024, and established using the following percentages for the given time periods:

<u>Time Period</u>	<u>CCD Prior to Jan. 1, 2012</u>	<u>ACD</u>
October 1, 2015 to September 1, 2016	45%	55%
October 1, 2016 to September 1, 2017	40%	60%
October 1, 2017 to September 1, 2018	35%	65%
October 1, 2018 to September 1, 2019	30%	70%
October 1, 2019 to September 1, 2020	25%	75%
October 1, 2020 to September 1, 2021	20%	80%
October 1, 2021 to September 1, 2022	15%	85%
October 1, 2022 to September 1, 2023	10%	90%
October 1, 2023 to September 1, 2024	5%	95%

6. Paragraph 6 of the First Amendment modified Section 10(a) Monthly Fuel Adjustment Charge. As amended, Section 10(a), second sentence, contained a January 1, 2013 start date. Section 10(a), second sentence, shall now be amended as follows:

Beginning January 1, 2014, heating and cooling will have separate Monthly Fuel Adjustment charges. Jointly used fuel and water treatment costs will be allocated between heating and cooling services based upon the Authority's reasonable engineering estimates.

7. Within thirty (30) days of setting the dates to be set by the Port Authority per this Second Amendment, the Port Authority shall provide the Customer an Amended and Restated Hot and Chilled Water Service Agreement showing the dates set by the Port Authority.

8. Exhibit A of the First Amendment hereby replaces Exhibit I - Rate Schedules from the Agreement in its entirety.

9. Exhibit II - Conditions of Service from the Agreement is hereby amended and attached hereto as Exhibit II-2, Amendment to Conditions of Service.

10. Exhibit IV - Hot/Chilled Water Distribution Piping from the Agreement is hereby amendment and attached hereto as Exhibit IV-2, Amendment to Hot/Chilled Water Distribution Piping.

11. Exhibit V - Schematic Drawing of Service Piping from the Agreement is hereby amendment and attached hereto Exhibit V-2, Amendment to Schematic Drawing of Service Piping.

12. Exhibit VI - Specifications - Buried Piping from the Agreement is hereby amendment and attached hereto Exhibit VI-2, Amendment to Schematic Drawing of Service Piping.

13. Exhibit VII - Specifications - Indoor Piping from the Agreement is hereby amendment and attached hereto Exhibit VII-2, Amendment to Specifications - Indoor Piping.

14. Except as expressly provided in this Amendment, the capitalized terms used herein shall have the same meaning as set forth in the Agreement. The Agreement, as amended hereby, constitutes the entire agreement between the parties and supersedes any previous agreements or understanding between the parties and Customer is relying only on the express terms of the Agreement, as amended hereby, in entering into this Amendment.

15. Authority reserves the right from time to time to assign its rights under this Agreement (including its rights to payments hereunder) to one or more creditors (each, a "Secured Party") as collateral security for one or more financings, and Customer hereby agrees to any and all such assignments. As a result of such assignment, Customer may receive notice from such Secured Party with an assertion that an event of default has occurred under the financing, and that payments under this Agreement are to be made to such Secured Party. Customer also hereby agrees to make such payments to such Secured Party, and Authority agrees to hold Customer harmless for making such payments to such Secured Party after Customer has received such notice of default. Customer further agrees that all such Secured Parties shall be deemed third-

party beneficiaries of this Agreement, until such time as Customer receives written notice to the contrary from Authority and each such Secured Party.

16. Authority has executed and delivered this Amendment to Customer for its signature; upon execution by Customer and delivery to Authority, this Amendment shall be held in trust by Authority (and the Amendment shall not be subject to rescission by Customer) pending Authority's receipt of similar amendments from all of the other On-Line Customers in the Distribution System that Authority deems necessary, in its sole and absolute discretion, to move forward with the contemplated transaction. Upon receipt of the necessary amendments, Authority will provide written notice to Customer that this Amendment is in full force and effect (the "Notice of Effectiveness") as of the effective date to be set forth in such notice (the "Effective Date"). Notwithstanding anything to the contrary, this Amendment shall not be effective unless and until such Notice of Effectiveness has been delivered by Authority, which shall be all that is necessary to make this Amendment effective. If Authority determines in its sole and absolute discretion that it has not received the necessary amendments, and is unlikely to receive them in a timely manner, it may provide written notice to Customer that this Amendment is void ab initio and is of no force and effect.

17. Access to Building. In light of the fact that Customer operates a critical operations facility on the Property, regarding any work required to be conducted inside the Customer's Building (i) Customer may reasonably restrict the timing of such work, including requiring work to be performed during evenings or on weekends; (ii) Authority shall provide to Customer a detailed schedule of all such work to be performed at least ten (10) business days prior to any entry into the Building unless under emergency conditions which will decrease the notice period; (iii) any person performing such work on behalf of Authority must sign in and sign out of the facility every day; (iv) Authority shall provide to Customer a list of all personnel (employees, contractors, sub-contractors, agents, etc.) that require access to the Building at least three (3) business days prior to any entry into the Building; and (v) all such personnel must follow Customer's rules and regulations applicable to the Customer's Building.

[Signature page follows.]

IN WITNESS WHEREOF, Customer and Authority have executed and delivered this Amendment as of the last date written below.

CUSTOMER:

U.S. BANK NATIONAL ASSOCIATION

By: _____

Its: _____

Date: _____

AUTHORITY:

**PORT AUTHORITY OF THE
CITY OF SAINT PAUL**

By: _____

Its: _____

Date: _____

EXHIBIT B

DRAFT SCHEDULE A
ENERGY PARK UTILITY COMPANY
(Draft Figures as of March 15, 2012)

DEMAND CHARGE CALCULATION

i)	Budgeted Operating Expenses (7/1/12 to 12/31/12)	\$449,120
ii)	All Debt Service Costs and Requirements	157,799
iii)	Fixed Reimbursement (7/1/12 to 12/31/12; \$170,000 /12 x 6 Months)	<u>85,000</u>
	Subtotal	\$691,919
	Multiplied By	1
iv)	Budgeted demand revenues before 10% Reserve for Repairs, Replacements, Modifications, and Expansions	\$691,919
	Divided By	<u>95%</u>
	Budgeted Total Demand Revenues	\$728,336
	Divided by Budgeted Cooling Energy Demand (Total MMBtuh per Month)	285.2
	Cooling Demand Charge (\$ per MMBtuh per Month)	\$1,400.00
	Divided by Budgeted Heating Energy Demand (Total MMBtuh per Month)	246.3
	Heating Demand Charge (\$ per MMBtuh per Month)	\$1,336.00