

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into this ____ day of _____, 2015 by and between MAPLEWOOD TH ACQUISITION, LLC, a Minnesota limited liability company (the "Assignor") and MAPLEWOOD TOWNHOMES LLC, a Minnesota limited liability company (the "Assignee").

RECITALS

WHEREAS, Maplewood Townhomes Limited Partnership, the predecessor in title to the Assignor, the City of Maplewood and Board of Water Commissioners of the City of Saint Paul are parties to an Agreement dated as of September 16, 1996 and recorded with the County Recorder, County of Ramsey, Minnesota as Document No. 2970382 (the "Agreement") which Agreement concerns the construction and ongoing maintenance and repair of a private water main on certain real property located in Maplewood, Ramsey County, Minnesota and more particularly described in the Agreement and on Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Agreement was assigned to and assumed by the Assignor by that certain Assignment and Assumption Agreement dated October 4, 2012 and recorded with the County Recorder, County of Ramsey, Minnesota as Document No. 4360728; and

WHEREAS, the Assignor is conveying the Property and all improvements thereon to the Assignee pursuant to a Warranty Deed, and in connection therewith, Assignor desires to assign to Assignee and Assignee desires to assume from Assignor all rights, duties and obligations of the Assignor under the Agreement, and Assignee desires to accept such assignment on the terms set forth.

NOW, THEREFORE, in consideration of the agreements contained hereon and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

- Assignment.** Assignor hereby assigns to Assignee all of Assignor's rights, duties, obligations and benefits under the Agreement, and Assignee hereby assumes such rights, duties, obligations and benefits and agrees to be bound by the terms and conditions of the Agreement as originally binding upon Assignor. In furtherance of not in limitation of the foregoing, Assignee specifically agrees that it shall have an obligation from and after the date hereof to pay the cost of the maintenance and replacement of the private water main which is the subject of the Agreement, and agrees that it shall be responsible and liable for all losses and damages arising out of the operation, maintenance, use and repair of the main or service pipes, all as provided more fully in the Agreement.
- Notice of Assignment and Assumption.** Promptly upon the execution of this Assignment, Assignor and Assignee shall cooperate to provide written notice of this Assignment to the Board of Water Commissioners of the City of Saint Paul.

3. **Successors.** This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

4. **Amendments.** This Assignment may be amended, modified or supplemented only by written agreement of the parties hereto.

5. **Counterparts.** This Assignment may be executed in counterparts, both of which shall be deemed to be an original and both of which taken together shall constitute one and the same instrument.

6. **Miscellaneous.** If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions hereof shall not be affected thereby, and there shall be deemed substituted for the provisions at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

[Signature Page Follows]

This Instrument Drafted By:
Stapleton & McCloughan, PLLC
105 Hardman Court, Suite 110
South St. Paul, MN 55075
651-215-8507

EXHIBIT A

Legal Description

The East 403.00 feet of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, Township 29, Range 22, Ramsey County, Minnesota except the North 278.94 feet thereof.