

Legislative Hearing Officer Marcia Moermond  
Room 310 City Hall  
15 West Kellogg  
St. Paul, MN 55102

April 27, 2011

Dear Ms. Moermond,

I appreciate Mr. Magner's acknowledgement last Tuesday that the property at 1407-1415 Marshall lies in the path of the proposed extension of Ayd Mill Road to I-94. Enclosed are the the documents I referenced at that hearing.

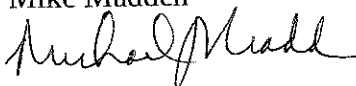
I have examined some of the property and tax records for Lot 15. It appears to be irregular in shape, roughly 606 feet deep (north to south) and varying in width from 59 feet to 264 feet (east to west). It is subject to easement. The total estimated market value is \$603,700 (land \$225,000; buildings \$378,700). Coming Donohue lost the property to foreclosure on June 3, 2010. Two individuals, Mark Sullivan and Chad Commers, bought the property from Associated Commercial Finance on February 25, 2011. Sullivan and Commers sold the property to Concordia University on March 18, 2011. This leads to several questions:

1. Who are Mark Sullivan and Chad Commers and how much did they pay for the property?
2. Why are First Federal Capital Bank, US Bank NA, and Fabyanske, Westra, Hart, & Thomson listed as responsible and/or interested parties in the March 25, 2011 notice of public hearing?
3. How much did Concordia University pay for the property?
4. Will Concordia University be required to pay property taxes? If so, will they pay less in property taxes after any or all of the buildings are demolished?
5. Beyond the immediate plan to turn the land into green space for use by students at Higher Ground Academy, does Concordia University have any long range development plans for the property?
6. How much of the property is the City of St. Paul expected to need for the proposed extension of Ayd Mill Road?
7. Given its irregular shape, would there be any part of this parcel still suitable for Concordia University to develop if and when Ayd Mill Road goes through?
8. With the City Council and the Coleman Administration at odds with the Record of Decision issued by the Kelly Administration in 2005 (the Four-Lane Extended to St. Anthony Alternative), what is the status of the Ayd Mill Road Redevelopment Project? Will a Supplemental EIS be undertaken as called for in two previous resolutions (Council Files 07-1011 and 09-878)?

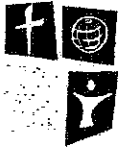
At this point it would be difficult to comment on the order to repair or demolish the buildings. If you can help with answers to any of these questions, it would be appreciated. I will also be conferring with Neighborhoods First!, an organization with a longstanding interest in Ayd Mill Road.

Sincerely,

Mike Madden



1



**Concordia**  
UNIVERSITY-SAINTE PAUL

*Government and Community Relations*

January 21, 1999

*FVI*  
*Andy*

Mr. Andy Scholl  
Neighborhood First!  
1294 Portland Avenue  
St. Paul, Minnesota 55104

Dear Mr. Scholl:

Please find enclosed Concordia University's official position, which was adopted on January 11, 1999, on the proposed Ayd Mill Road expansion.

If you have any question, please feel free to direct them to me at (651) 641-8279. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Pao Xiong', written over a horizontal line.

Lee Pao Xiong  
Director  
Government and Community Relations

Enclosure



**Concordia University, St. Paul  
Statement of Position on Ayd Mill Road**

The mission of Concordia University, St. Paul, a university of The Lutheran Church – Missouri Synod, is to prepare students for thoughtful and informed living, for dedicated service to God and humanity, and for the enlightened care of God’s creation, all within the context of the Christian Gospel.

Concordia University, St. Paul occupies approximately 40 acres in the Lexington-Hamline neighborhood.

The following statement represents the official position of Concordia University, St. Paul on the proposed Ayd Mill Road expansion.

To assist us in our decision making process, we reviewed position statements and sought input from the Midway Chamber of Commerce, Lexington-Hamline Community Council (through one of their representative on the Ayd Mill Road Task Force), Neighborhood First!, Ayd Mill Road Coalition, and the city staff assigned to work on this project as well as a legislator.

In making our decisions, we used the following principles to guide us.

1. Having a *thriving and robust neighborhood and business community* is important;
2. Regardless of whether a decision is made or not on the road expansion, *accessibility* is important. We want our students, staff, faculty and guests to be able to access our campus;
3. We want to ensure the *safety* of our students, staff, faculty and constituents. All new streets and intersections need to reflect this philosophy;
4. Since Concordia University, St. Paul does not wish to expand southward into the neighborhood and we are already bound to the east by Dunning Field, and to the north by Interstate 94, our only option is westward. The connection will clearly limit our campus *expansion* options;
5. In the unfortunate event of a connection through our campus, we expect to be *fairly compensated* for our loss;
6. *Aesthetics* are important. We want the road to be as attractive and environmentally friendly as possible. As such, if the road is built, we ask to be included in the design process.
7. Maintaining a *healthy environment* is important for Concordia University, St. Paul. All air, noise, and visual pollution need to be addressed adequately.

**Our Statement of Position on the options being discussed by the Ayd Mill Road Task Force is as follows:**

1. **No Build Option.** Ayd Mill Road remains as it is today

*Concordia University, St. Paul supports the No Build Option.*

2. **Replace Ayd Mill Road with a Linear Park.**

*Concordia University, St. Paul enthusiastically supports this option if it creates a direct connection to our campus.*

**Concordia University, St. Paul  
Position Statement  
Ayd Mill Road  
Page 2 of 2**

3. A Two-Lane Extended Alternative that connects I-35E with I-94 via St. Anthony.

*Concordia University, St. Paul does not support this option unless it is situated further west, does not encroach on our property, is attractive, and the speed limit would not exceed 35 mph. Because this option would have a visual impact on our campus and limits our future expansion, we would expect to be fairly compensated.*

4. A Four-Lane Extended Alternative that connects I-35E with I-94 via St. Anthony.

*Concordia University, St. Paul does not support this option unless it goes underground and has no visual impact on the campus.*

5. A Four-Lane Extended Alternative with direct connection to I-35E to the south and Bridged Ramps to I-94.

*Concordia University, St. Paul does not support this option unless it goes underground and has no visual impact on the campus.*

*Please direct all questions to Lee Pao Xiong, Director of Government and Community Relations for Concordia University, St. Paul, at (651) 641-8279.*

*Adopted by Concordia University's Cabinet on January 11, 1999*



## Memorandum

Engineering Division  
8 4<sup>th</sup> St E, Suite 400  
Saint Paul MN 55101

2

To: Jane Prince, Legislative Aide  
City Council  
Room 31D City Hall

Date: August 22, 2003

From: Bill Tschida *wll*  
Phone: 651-266-6265

Re: Landsale and Purchase Agreement between  
Board of Water Commissioners and Concordia University

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Hi Jane. Peter White forwarded your August 21 e-mail request to our department for handling. Finance receives copies of purchase agreements and Real Estate receives copies of leases.

Per your request, please find attached a copy of the January 14, 2003 Purchase Agreement which governed the sale of the Board's Hamline Distribution Yard to Concordia University.

Let me know if there's anything else you need.

Attachment: 1

Phone Conversation w/ Bill Tschida Feb 8, 2008.  
Water Utility vacated the property in 2004. All terms of the agreement were satisfied to his knowledge.

## LAND SALE AND PURCHASE AGREEMENT

This Agreement is made this 4<sup>th</sup> day of January, 2003, between the Board of Water Commissioners of the City of Saint Paul, a municipal subdivision and body corporate and politic organized and existing under the laws of the State of Minnesota (the "Seller") and Concordia University, St. Paul, a nonprofit corporation under the laws of the State of Minnesota (the "Buyer").

1. Sale and Purchase of the Property. The Seller agrees to sell and convey, and the Buyer agrees to purchase, that certain real estate located at 289 North Hamline Avenue, St. Paul, Ramsey County, Minnesota, consisting of approximately 4.44 acres (the "Property").

2. Description of the Property. The Property is as described in Exhibit A, attached hereto and incorporated herein by reference.

3. Conveyance of the Property. The Seller shall convey the Property to the Buyer at the Closing by quit claim deed.

To the maximum extent permitted by law and except as otherwise provided herein, the Property is being sold and conveyed "as is," and "with all faults," with no warranties, guarantees, promises, agreements, or representations, whether express or implied, by the Seller or any person acting or purporting to act on its behalf, as to (i) title, (ii) the Seller's interest or estate in the Property, (iii) the existence or nonexistence of other interests in the Property, (iv) the condition of the Property or its suitability for any use or purpose, and (v) the value, nature, quality or condition of the Property, including without limitation, the water, soil or geology.

Seller hereby agrees to defend and hold Buyer harmless from all claims, suits, judgments of any kind regarding the existence on the Property of any pollutants, contaminants, hazardous wastes, or any substances on the Property adversely affecting the environment.

4. Purchase Price, Terms and Adjustments. The purchase price for the Property shall be the sum of \$1,440,000.00, payable by bank draft or other draft satisfactory to the Seller as follows:

\$10,000.00, as earnest money, the receipt and sufficiency of which are hereby acknowledged (these funds are to be placed in an interest bearing account); and

\$1,430,000.00, constituting the balance of the purchase price at closing.

5. Assessments. Seller shall pay all assessments, charges, taxes or fees pending, levied against or charged to the Property due through the date of Closing.

6. Buyer Contingencies.

(a) Title Examination.

(1) Within thirty (30) days of this Agreement, Seller shall provide Buyer with a survey of the Property prepared by or under the direction of a registered land surveyor.

(2) Within thirty (30) days of this Agreement, Seller shall provide Buyer a commitment (the "Commitment") for a 1992 ALTA Owner's Policy of Title Insurance insuring title to the Property and any appurtenant easements thereto, in the amount of the Purchase Price, issued by a title insurance company designated by Buyer ("Title"). The Commitment will commit Title to insure title to the Property subject only to those encumbrances acceptable to Buyer. If the Property is abstract property, Seller shall also deliver to Title or Buyer an Abstract of Title to the Property certified to a current date to include all appropriate judgment, bankruptcy, and tax lien searches.

(3) Within thirty (30) days of this Agreement, Buyer may obtain, at its cost, a report of UCC searches made of the Uniform Commercial Code records of the Secretary of State of Minnesota, made by said Secretary of State, or by a

search firm acceptable to Buyer, showing no UCC filings regarding the Property.

- (4) Within thirty (30) days after receiving the survey, the Commitment, and UCC search, Buyer shall make written objections (the "Objections") to the form and/or contents of such title evidence. Buyer's failure to make Objections within such time period will constitute a waiver of Objections. Any matter shown on such title evidence and not objected to by Buyer shall be a "Permitted Encumbrance." Seller will have sixty (60) days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed as necessary. Seller shall use its best efforts to correct any Objections. Buyer may object to any easements, restrictions or reservations of record which interfere with Buyer's intended use of the Property. If the Objections are not cured within such sixty (60) day period, Buyer will have the option to do any of the following:
- (i) Terminate this Agreement; or
  - (ii) Waive the Objections and proceed to close.
- (b) Testing. Buyer shall have determined, on or before the Closing, that it is satisfied with the results of and matters disclosed by soil tests, well tests, engineering inspections, hazardous waste and environmental reviews of the Property, all such tests, inspections and reviews to be obtained at Buyer's sole cost and expense. Seller shall allow Buyer, and Buyer's agents, access to the Property without charge and at all reasonable times for the purpose of Buyer's investigation and testing the same.
- (c) Government Approvals. Buyer shall have obtained at its sole cost and expense, on or before the Closing, all final governmental approvals necessary in Buyer's judgment in order to make use of the Property as Buyer intends. Seller shall, without charge to Buyer, cooperate in Buyer's attempts to obtain all governmental approvals necessary in Buyer's judgment in order to make that use of the Property as Buyer intends.
- (d) The Lutheran Church - Missouri Synod. Buyer shall have obtained on or before the Closing, the final approval of The Lutheran Church - Missouri Synod to purchase the Property pursuant to the terms and conditions of this Agreement.
- (e) Document Review. Within thirty (30) days of this Agreement, Seller shall provide Buyer with all leases, contracts, permits, licenses, warranties, blueprints, plans and specifications, surveys, environmental reports, soil reports, repair and maintenance



review such records and terminate this Agreement, by providing written notice to Seller, if the records are unacceptable to Buyer in its sole discretion.

If any of the foregoing contingencies have not been satisfied in Buyer's sole discretion, or waived by Buyer, on or before the stated date, or the Closing Date if no date is stated, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Upon such termination, the Earnest Money, together with all accrued interest, shall immediately be returned to Buyer and upon such return, neither party will have any further rights or obligations regarding this Agreement of the Property.

7. Seller Contingencies. Seller shall obtain all necessary consents and approvals to sell Buyer the Property pursuant to the terms of this Agreement on or before March 14, 2003. If Seller cannot obtain the necessary consents and approvals, Seller may, upon delivery of written notice, terminate this Agreement.

8. Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:

- (a) Title Insurance and Closing Fee. Seller shall pay the cost of the survey and Commitment. Buyer shall pay all premiums required for the issuance of any owner's or lender's policy issued pursuant to the Commitment and the cost of any testing. Seller and Buyer shall share equally any title company closing fee or charge.
- (b) Real Estate Taxes and Special Assessments. General real estate taxes and installments of special assessments payable therewith ("Taxes") due and payable in the year prior to the year in which the Closing Date occurs and all prior years shall be paid by Seller. Taxes due and payable in the year in which the Closing Date occurs and thereafter shall be paid by Seller pursuant to the terms of the Lease (defined below). Seller shall pay all special assessments levied, pending or ordered against the Property as of the Closing Date.

- (c) Recording Costs. Seller will pay the cost of recording all documents necessary to place record title in the condition warranted and represented by Seller in this Agreement. Buyer will pay the cost of recording all other documents.
- (d) Other Costs. All other income, rents, fees, costs, expenses, operating costs of the Property and any other income or expenses shall be prorated between Seller and Buyer as of the Closing Date.
- (e) Attorneys' Fees. Each of the parties will pay its own attorneys' fees.

9. Closing. The Closing shall occur on or before March 14, 2003, or at such later date and time as may be mutually agreeable to the Seller and the Buyer.

10. Ayd Mill Road. The parties agree to be respectful of one another's interest in any future expansion of Ayd Mill Road onto the Property or Buyer's adjoining properties. Buyer further agrees that it will not oppose a petition by the City of St. Paul to initiate eminent domain proceedings required for said project.

11. Lease Assignment. At closing, Seller shall assign to Buyer the lease by and between Seller, as Landlord, and McCaw Communications of Minneapolis, Inc. and Affiliated Cellular of Minneapolis, Inc., as Tenants (collectively, the "Tenant"), dated April 22, 1992 (the "Antennae Lease"). Seller shall, at Buyer's request, cooperate with Buyer to obtain an estoppel from the Tenant certifying that the Lease has not been amended, and that there are no defaults. All income and expenses of the Antennae Lease shall be prorated to the date of closing.

12. Lease Back. Buyer agrees to lease the Property, excluding the property subject to the Antennae Lease, to Seller after Closing pursuant to the terms and conditions contained in the lease attached hereto as Exhibit B (the "Lease").

13. Breach or Default. In the event that either party shall fail to fully or timely perform any of its obligations hereunder, the other party may (i) seek specific performance of this Agreement, or (ii) seek recovery of damages for such breach or default, or (iii) terminate this Agreement. Such remedies are not exclusive. In the event of termination of this Agreement, the Seller shall deliver written notice of such termination to Buyer as provided for Notices hereunder in Paragraph 16 of this Agreement, which notice shall be deemed to be effective on the date such notice is given.

In the event of termination of the Agreement, the Buyer shall promptly deliver to Seller a termination of its interest in the Property and this Agreement. The Seller shall return the earnest money received by it.

14. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

- (a) Authority. Seller is a municipal corporation and body corporate and politic organized and existing under the laws of the State of Minnesota; Seller has the requisite power and authority to enter into and perform this Agreement and the closing documents signed by it; such documents will be duly authorized by all necessary action on the part of the Seller and will be duly executed and delivered; such execution, delivery and performance by Seller of such documents does not conflict with or result in a violation of Seller's organizational or authorizing agreements or any judgement, order, or decree of any court or arbiter to which Seller is a party; such documents shall be valid and binding obligations of Seller, and are enforceable in accordance with their terms.
- (b) Environmental Laws. Except as otherwise disclosed in writing by Seller to Buyer, to the best of Seller's knowledge, no toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§9601-9657, as amended) have been generated, treated,

released or disposed of, or otherwise placed, deposited in or located on the Property nor has any activity been undertaken on the Property that would cause or contribute to (i) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §§6901 et seq., or any **similar state law or local ordinance**, (ii) a release or threatened release of toxic or **hazardous wastes or substances, pollutants or contaminants**, from the Property within the meaning of, or otherwise bring the Property within the ambit of, CERCLA, or any **similar state law or local ordinance**, or (iii) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., or the Clean Air Act, 42 U.S.C. §§7401 et seq., or any similar state law or local ordinance. The storage tanks that exist, if any, on or under the Property have been duly registered with all appropriate regulatory and governmental bodies and are in compliance with applicable Federal, state and local statutes, regulations, ordinances and other regulatory requirements.

- (c) Rights of Others. Seller has not entered into any other contracts for the sale of the Property, nor are there any effective rights of first refusal or options to purchase the Property, or any other rights of others that might prevent the consummation of this Agreement. Except for the Lease, to the best of Seller's knowledge there are no unrecorded contracts, leases, easements or other agreements or interests pertaining to the Property, except an easement for lighting purposes which the Seller intends to provide to the City of St. Paul prior to the Closing (a copy of which will be delivered to Buyer).
- (d) Seller's Defaults. To Seller's knowledge, Seller is not in default concerning any of its other obligations or liabilities regarding the Property.
- (e) Proceedings. There is no litigation, condemnation or proceeding of any kind pending or, to Seller's knowledge, threatened in writing by notice, against any portion of the Property.

Seller will indemnify Buyer, its successors and assigns, against, and will hold Buyer, its successors and assigns, harmless from, any expenses or damages including reasonable attorneys' fees, that Buyer incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after closing. Each of the representations and warranties

herein shall survive the Closing. Consummation of this Agreement by Buyer with knowledge of any breach of such representations and warranties by Seller shall not constitute a waiver or release by Buyer of any claims due to such breach.

15. Representations and Warranties by Buyer. Buyer represents and warrants to Seller that the execution and performance by Buyer of this Agreement does not violate or contravene any agreement or court order to which Buyer is bound and that this Agreement and the closing documents when executed by Buyer will constitute the binding agreement and obligation of Buyer, enforceable against Buyer in accordance with their terms. Buyer will indemnify Seller, its successors and assigns, against, and will hold Seller, its successors and assigns, harmless from, any expenses or damages including reasonable attorneys' fees, that Seller incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after closing. Each of the representations and warranties herein shall survive the Closing. Consummation of this Agreement by Seller with knowledge of any breach of such representations and warranties by Buyer shall not constitute a waiver or release by Seller of any claims due to such breach.

16. Notices. Any notice required to be given to Seller or Buyer pursuant to this Agreement or in pursuance of rights or obligations thereunder, shall be in writing and shall be deemed to be duly given: (i) on the date of personal delivery; (ii) one (1) day following dispatch by Federal Express, Express Mail, or the equivalent; or (iii) two (2) days following the mailing by certified or registered mail, postage prepaid, return receipt requested, to the respective addresses of the parties set forth below:

Seller: Board of Water Commissioners  
Attn: General Manager  
8 East Fourth Street, Suite 400  
Saint Paul, Minnesota 55101-1007

Buyer: Concordia University  
275 North Syndicate Avenue  
St. Paul, Minnesota 55104-5494  
Attn: Thomas Ries

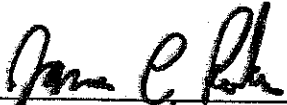
Any party, by notice given as aforesaid, may change the address to which subsequent notices are to be sent to such party.

17. Survival of Agreement Terms and Covenants. All of the terms and conditions of this Agreement shall survive after and following the Closing and conveyance of title, and shall continue thereafter until the amendment of this Agreement by the Seller and the Buyer.

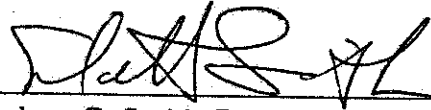
18. Nonassignability. This Agreement and its terms, provisions and covenants, shall not be assigned by the Buyer.

SELLER:

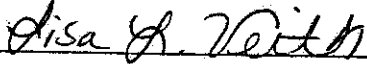
Board of Water Commissioners of the  
City of Saint Paul

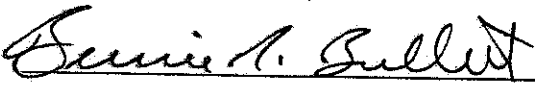
  
\_\_\_\_\_  
James C. Reiter, President

  
\_\_\_\_\_  
Janet Lindgren, Secretary

  
\_\_\_\_\_  
Matthew G. Smith, Director  
Office of Financial Services

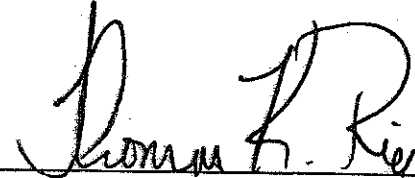
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

  
\_\_\_\_\_  
Bernie R. Bullert, General Manager  
Saint Paul Regional Water Services

BUYER:

Concordia University, St. Paul

  
\_\_\_\_\_  
Thomas Ries  
Its: Vice President, Finance and Operations

**EXHIBIT A  
LEGAL DESCRIPTION**

Lot 13, Kittsondale, being Auditor's Subdivision No. 27 St. Paul, Minnesota; except the north 32 feet of said Lot 13, and except that part of said Lot 13 described as follows:

**Beginning at the southwest corner of said Lot 13; thence South 89 degrees 54 minutes 38 seconds East, assumed bearing, along the south line of said Lot 13 a distance of 46.05 feet; thence North 00 degrees 02 minutes 00 seconds East 64.21 feet; thence North 89 degrees 54 minutes 38 seconds West 46.05 feet to the west line of said Lot 13; thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13 to the point of beginning.**

And

That part of Lot 15, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota, described as follows:

**Beginning at the northwest corner of Lot 13 in said subdivision; thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13, a distance 134.00 feet; thence southwesterly to the intersection with the south line of said Lot 13 extended West and the east line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Company Railroad in Lot 15; thence North 00 degrees 08 minutes 43 seconds West along the east line of said right-of-way 154.46 feet more or less to a point 169.00 feet south of the north line of said Lot 15; thence North 10 degrees 46 minutes 25 seconds East 171.71 feet to the point of beginning.**

And

**The easterly 120.00 feet of the southerly 50.00 feet of the northerly 85.00 feet of Lot 14, Kittsondale, being Auditor's Subdivision No. 27, St. Paul Minnesota subject to Hamline Avenue over the east 30.00 feet thereof, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Ramsey County, Minnesota.**

And

**The north 35.00 feet of the east 155.00 feet of Lot 14, Kittsondale, being Auditor's Subdivision No. 27, St. Paul Minnesota, subject to rights acquired by City of St. Paul for opening and widening of Hamline Avenue.**



And

That part of Lot 15, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota described as follows:

Beginning at the northwest corner of Lot 13, said subdivision, thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13 134.00 feet to the point of beginning; thence South 09 degrees 27 minutes 42 seconds West on a line which intersects the east line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the westerly extension of the south line of said Lot 13 a distance of 126.63 feet; thence North 89 degrees 54 minutes 38 seconds East 21.13 feet to the west line of said Lot 13; thence North 00 degrees 08 minutes 43 seconds West along the west line of said Lot 13 a distance of 124.87 feet to the point of beginning.

Subject to:

An easement for lighting purposes over, under and across the westerly 2 feet of the Easterly 32 feet of Lots 13 and 14, Kittsondale, being Auditor's Subdivision Number 27, St. Paul, Minnesota.

Also subject to Storm Sewer Easement Doc. No. 1520531.

Also subject to Cellular One Access Easement and any other easements of record.

## LEASE

### ARTICLE 1. PARTIES

This Lease is entered into as of the 14<sup>th</sup> day of March, 2003, by CONCORDIA UNIVERSITY, ST. PAUL, a Minnesota nonprofit corporation ("Landlord"), and BOARD OF WATER COMMISSIONERS OF THE CITY OF ST. PAUL, a Minnesota municipal subdivision and body corporate and politic ("Tenant").

### ARTICLE 2. PREMISES

In consideration of the covenants, conditions, and promises hereby mutually undertaken to be kept or performed by the parties, Landlord hereby demises and leases, and Tenant hereby hires and takes, approximately 4.44 acres of certain real estate located at 289 North Hamline Avenue, St. Paul, Minnesota, legally described on attached Schedule 1, including any and all improvements, parking areas, and driveways located thereon, all being collectively referred to below as the "Premises", together with any and all easements, rights and appurtenances in connection therewith or belonging thereto, excluding that area subject to that certain lease between Landlord and McCaw Communications of Minneapolis, Inc. and Affiliated Cellular of Minneapolis, Inc., dated April 22, 1992.

### ARTICLE 3. PERMISSIBLE USE

During the term hereof, Tenant may use the Premises for continuation of historical occupancy and use by St. Paul Regional Water Service. Tenant's use of the Premises shall comply with all applicable laws, zoning requirements, requirements contained in all documents of record relating to the Premises, and the requirements of any insurance policies covering the Premises. Tenant acknowledges that Landlord has financed all or a substantial portion of the purchase price of the Premises with the proceeds of the Minnesota Higher Education Facilities Authority's Variable Rate Demand Revenue Bonds (Concordia University, St. Paul) Series Five-P1, the interest on which is intended to be excluded from gross income of the owner thereof for federal and Minnesota income tax purposes (the "Tax-Exempt Bonds"). Tenant covenants and agrees that it will take no action with respect to its use of the Premises which would cause the interest on the Tax-Exempt Bonds to be included in gross income for federal and Minnesota income tax purposes; including, without limitation, allowing use of the premises by an entity which is not a governmental unit or an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or using, or allowing the use of, the Premises for any "private business use" as defined in Section 141 of the Code.

ARTICLE 4.

TERM

The Term shall commence on the date of the sale of the Premises by Tenant to Landlord (the "Commencement Date") and shall run until March 31, 2005, unless earlier terminated pursuant to the terms of this Lease ("Term"). Upon thirty (30) days advance written notice delivered to Landlord, Tenant may terminate this Lease at any time during the Term.

ARTICLE 5.

RENT

- (a) Beginning on the Commencement Date, Tenant covenants and agrees to pay Landlord, on a net basis, an annual rent (the "Rent") equal to Seventy-two Thousand and No/100ths (\$72,000.00), payable in monthly installments of Six Thousand and No/100ths Dollars (\$6,000.00), in advance, on or before the first day of each month during the Term, to Landlord at the address set forth in Article 20 below, or to such other address as is specified in writing by Landlord.
- (b) If the Term shall commence or expire (or terminate) on other than the first or last day of a calendar month, the monthly installment of Rent for such month shall be prorated based upon the number of days of such month during which this Lease was in effect.
- (c) If any installment of Rent or any amount which Tenant is required to pay under this Lease is not paid within ten (10) calendar days after it becomes due and payable, interest shall accrue on that installment from the date it was due and payable at the annual rate of twelve percent (12%) per annum, or at the highest rate allowed by law, whichever is lower. Such interest shall be due and payable immediately upon accrual and shall be paid by Tenant to Landlord as additional rent.

ARTICLE 6.

ALTERATIONS, TITLE TO AND REMOVAL OF IMPROVEMENTS

Tenant shall not make any alterations, changes, or other improvements to the Premises ("Alterations") without Landlord prior written consent, which may be withheld in Landlord's sole discretion. Tenant shall comply with all applicable federal, state and local laws, rules and regulations and the insurance requirements set forth in this Lease in constructing the Alterations.

ARTICLE 7.

MAINTENANCE, REPAIRS AND REPLACEMENTS

Except as provided otherwise in Article 11, on and after the Commencement Date, Tenant, at its own expense, shall maintain, repair and replace all improved portions of the Premises, including, but not limited to, parking areas, sidewalks, and driveways. Tenant shall use all reasonable precautions to prevent waste, damage, or injury thereto. Tenant shall continually maintain the

Premises in a clean and sanitary condition. Landlord shall not be required to furnish any services or facilities or to make any improvements, repairs, or alterations in or to the Premises during the Term.

ARTICLE 8.  
TAXES

If applicable, Tenant, at its expense, shall pay all real estate taxes and special assessments that are levied, assessed, or imposed on, against, or with respect to the Premises, that become due and payable during the Term.

ARTICLE 9.  
UTILITIES

Tenant shall pay all costs for water, sewer, gas, electric current, refuse removal, and other utilities used, consumed, or wasted upon or in connection with the Premises on or after the Commencement Date, as and when the charges for the same shall become due and payable.

ARTICLE 10.  
INSURANCE

- (a) Beginning on the Commencement Date, Tenant, at its expense, shall carry on the permanent improvements demised hereunder property insurance, on a Standard Comprehensive Replacement Cost form, against loss or damage from all risks, with standard extended coverage endorsements and endorsements covering malicious mischief, sprinkler leakage, and vandalism with coverage for the full replacement value of the improvements demised hereunder.
- (b) As a municipal subdivision incorporated by the State of Minnesota under Chapter 110, laws of Minnesota for 1885, the Board of Water Commissioners is not required to carry workers' compensation insurance; furthermore, the Board of Water Commissioners is an authorized self-insured for all property damage and general liability claims.
- (c) The insurance policies provided for above (i) shall be placed with reputable insurance companies who are licensed to do business in the State of Minnesota; (ii) shall name Landlord as an additional insured or loss-payee, as its interests may appear; (iii) shall not be able to be canceled or materially changed unless Landlord is given written notice of such cancellation or change at least thirty (30) days in advance; (iv) shall provide for severability of interests; and (v) shall provide that an act or omission of the insureds or additional insureds which would cause coverage to be voided or reduced shall not cause coverage for the other additional insureds to be voided or otherwise reduced.
- (d) Before the Commencement Date, Tenant shall deliver to Landlord certificates of insurance which show that Tenant has obtained the insurance required under this

Lease, and thereafter, Tenant shall deliver to Landlord a replacement certificate or a renewal certificate prior to any scheduled expiration.

- (e) Tenant shall indemnify and defend Landlord against all losses, liabilities, and expense (including court costs, settlement costs, and attorney fees) arising out of, or **having to do with**, (i) Tenant's use or occupancy of the Premises, (ii) claims made by anyone injured or otherwise damaged while in or about the Premises not due to the gross negligence or willful misconduct of Landlord, its agents or employees, or (iii) Tenant's failure to comply with any of its duties or obligations under this Lease.

Landlord shall indemnify and defend Tenant against all losses, liabilities, and expenses (including court costs, settlement costs, and attorney fees) suffered by or claimed against Tenant, resulting from any gross negligence or willful misconduct of Landlord, its agents or employees, or any failure of Landlord to comply with the terms of this Lease.

- (f) Notwithstanding any other provision in this Lease to the contrary, to the extent allowed by applicable insurance policies, Landlord and Tenant hereby release one another from all liability or responsibility (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage covered by the insurance required above, even if such loss or damage was caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

#### ARTICLE 11.

#### DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

- (a) If the Premises is substantially destroyed (which, as used herein, means destruction or damage to at least seventy-five percent (75%) of the Premises) by casualty, either party hereto may, at its option, terminate this Lease by giving written notice thereof to the other party within thirty (30) days after such casualty. In such event, the Rent shall be apportioned to and shall cease as of the date of such casualty. As a precondition to Tenant's termination of the Lease, Tenant shall assign its rights under its casualty insurance policy to Landlord, and all insurance proceeds shall be paid exclusively to Landlord. In the event neither party exercises the termination option, then the Premises shall be reconstructed and restored, at Tenant's expense, to substantially the same condition as it existed prior to the casualty. In such event this Lease shall continue in full force and effect to the balance of the term, upon the same terms, conditions and covenants as are contained herein.
- (b) If the Premises is damaged, in whole or in part, by casualty, but is not substantially destroyed, or this Lease is not terminated as provided above, then Tenant shall reconstruct and restore the Premises, at its expense, to substantially the same condition as it existed prior to the casualty. In such event this Lease shall continue in full force and effect to the balance of the term, upon the same terms, conditions and covenants as are contained herein.

ARTICLE 12.  
EMINENT DOMAIN

If all or any part of the Premises shall be taken for any public or quasi-public use under any statute or by right of eminent domain or by private purchase in lieu thereof, then this Lease shall terminate as of the date the taking authority takes possession of the Premises and all damages awarded for such taking of the Premises shall belong to Landlord. Tenant, however, may make a claim in its own name to the condemning authorities for its relocation expenses to the extent such a claim does not reduce the Landlord's award.

ARTICLE 13.  
ASSIGNMENT AND SUBLETTING

Tenant may not sell, assign, sublease, mortgage, pledge, encumber, or in any manner transfer Tenant's interest in the Premises or in this Lease or any estate or interest thereunder without Landlord's prior written consent, which may be withheld by Landlord in its sole discretion.

ARTICLE 14.  
ENVIRONMENTAL COVENANTS

Tenant covenants and warrants to Landlord that any and all handling, transportation, storage, treatment, disposal, or use of Hazardous Substances, as defined below, by Tenant in, about, on or from the Premises shall strictly comply with all applicable Environmental Laws, as defined below. Tenant agrees to indemnify, defend and hold Landlord harmless from any liabilities, losses, claims, damages, penalties, fines, attorney fees, expert fees, court costs, remediation costs, investigation costs, or other expenses resulting from or arising out of the use, storage, treatment, transportation, release, or disposal of Hazardous Substances in, on, about or from the Premises by Tenant, and the off site migration of Hazardous Substances onto or under the Premises, whether such migration occurs prior to or during Tenant's occupancy of the Premises.

If the presence of Hazardous Substances on the Premises caused or permitted by Tenant results in the contamination or deterioration of the Premises or any water or soil beneath the Premises, Tenant shall promptly take any and all action necessary or desirable to investigate and remediate that contamination to the reasonable satisfaction of Landlord and as may be required by any authority with competent jurisdiction.

Landlord and Tenant each agree to promptly notify the other of any communication received from any governmental entity concerning the contamination of the Premises by Hazardous Substances or the violation of Environmental Laws that relate to the Premises.

At any time and upon prior written notice to Tenant, Landlord may require testing wells to be drilled on the Premises and may require the ground water to be tested to detect the presence of Hazardous Substances by the use of any tests that are then customarily used for those purposes. Landlord shall supply Tenant with copies of the test results. The cost of these tests and of the

installation, maintenance, repair, and replacement of the wells shall be paid by Tenant if the tests disclose the existence of facts that give rise to liability of Tenant pursuant to this Article.

Tenant, as a prior owner of the Premises, has obtained and provided to Landlord a Phase I Site Evaluation Assessment ("Phase I") covering the Premises (the "Entrance Assessment"), which Entrance Assessment shall be relied upon by both Landlord and Tenant. Landlord and Tenant have each, independently reviewed and approved the Entrance Assessment. Within fifteen (15) days after vacating the Premises, Tenant shall cause to be performed, at Tenant's sole cost and expense, a new Phase I covering the Premises by a reputable environmental consulting firm reasonably acceptable to Landlord (the "Exit Assessment"). In the event that the Exit Assessment discloses contamination of the Premises, that was not identified in the Entrance Assessment, Tenant shall, at Tenant's sole cost and expense, immediately commence and diligently pursue to completion the remediation of such contamination as well as such other actions as may be recommended by the Exit Assessment (collectively "Remediation Actions"). Tenant acknowledges and agrees that Remediation Actions that extend beyond the termination or sooner expiration of this Lease may cause Landlord to sustain lost rental income. Accordingly, if Remediation Actions extend beyond the termination or sooner expiration of this Lease, then Tenant shall pay to Landlord an amount equal to the Holdover Rent for the period during which any such Remediation Actions extend beyond the termination or sooner expiration of this Lease. Nothing contained herein shall limit or restrict any liability of Tenant for the completion of the Remediation Actions in accordance with applicable law and the recommendations of the Exit Assessment, nor shall anything herein serve to limit or restrict Tenant's liability under this Article.

As used herein, the term "Environmental Laws" means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as later defined), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Premises), occupational or environmental conditions on, under, or about the Premises, as now or may at any later time be in effect. including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 USCS §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USCS §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 USCS §§ 6901 et seq.]; the Clean Air Act [42 USCS §§ 7401 et seq.]; the Safe Drinking Water Act [42 USCS §§ 300f et seq.]; the Solid Waste Disposal Act [42 USCS §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§ 11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§ 655 and 657]; together with any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to the environmental condition on, under, or about the Premises, or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or

land use.

As used herein, the term "Hazardous Substances" includes without limitation:

- (a) Those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, or pollutant or contaminant in CERCLA, RCRA, TSCA, HMTA, or under any other Environmental Law;
- (b) Those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172. 101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302];
- (c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and
- (d) Any material, waste, or substance that is (1) a petroleum or refined petroleum product, (2) asbestos, (3) polychlorinated biphenyl, (iv) designated as a hazardous substance pursuant to 33 USCS § 1321 or listed pursuant to 33 USCS § 1317, (5) a flammable explosive, or (6) a radioactive material.

The warranties and covenants contained in this Article shall survive the expiration or earlier termination of the Term of this Lease.

#### ARTICLE 15. RIGHT TO CURE DEFAULTS

If Tenant breaches any of its obligations under this Lease and fails to cure such breach within the applicable cure period, then Landlord may take, but shall not be obligated to take, whatever action Tenant would have been required to take to cure Tenant's breach, such as making payments, doing work, repairing or mitigating damage, or bringing, or defending against, legal action. Tenant shall pay Landlord, as additional rent, an amount equal to the expenses incurred by Landlord in taking action under this Article, together with interest thereon from the date paid by Landlord at an annual rate equal to seven percent (7%) per annum or at the highest rate allowed by law, whichever is lower. Such additional rent shall be paid by Tenant on or before the day on which the next installment of Rent shall be due and payable.

#### ARTICLE 16. MECHANICS LIENS

Tenant shall pay, when due, all sums of money that may become due for, or purporting to be due for, any labor, services, materials, supplies or equipment, alleged to have been furnished or to be furnished to or for the Tenant, in, upon or about the Premises and which may be secured by any construction, mechanics', materialmen's or other lien against the Premises and/or the Tenant's interest therein. Tenant will cause each such lien to be fully discharged and released, provided, however, that if the Tenant desires to contest any such lien, it may do so, but notwithstanding any



such contest, if such lien shall be reduced to final judgment and such judgment or such processes issued for the enforcement thereof is not promptly stayed or if so stayed and such stay thereafter expires, then Tenant shall forthwith pay and discharge said judgment.

ARTICLE 17.  
REMEDIES OF LANDLORD

- (a) Any of the events listed below shall be an Event of Default:
- (i) Tenant fails to pay in full any installment of Rent under this Lease within five (5) days of when that installment is due and payable.
  - (ii) Tenant breaches any of its obligations under this Lease, other than an obligation to pay Rent, and such breach is not cured within thirty (30) days after Landlord gives Tenant written notice thereof, or if the breach cannot be cured within thirty (30) days despite Tenant's best efforts to do so, if Tenant fails at any time to act with due diligence to cure such default or Tenant fails to cure such breach as soon as it could have had it used its best efforts to do so.
- (b) If an Event of Default shall have occurred and be continuing, Landlord may do either or both of the following:
- (i) Landlord may terminate this Lease upon giving ten (10) days written notice of termination to Tenant.
  - (ii) Landlord may enter and repossess the Premises by force, summary proceedings, ejectment, or otherwise, and may remove Tenant and all other persons and property from the Premises without terminating this Lease or Tenant's obligations hereunder. After repossessing the Premises, Landlord may relet the Premises for the account of Tenant. Any rent received from such reletting shall be applied against Tenant's obligations under this Lease.

ARTICLE 18.  
RECORDING

This Lease shall not be recorded. If, however, either Landlord or Tenant wish to record a memorandum of this Lease, each party shall execute and deliver to the other a memorandum, which may then be recorded in the appropriate office of the county where the Premises is located. Without the consent of both parties, such memorandum will not contain the amount of Rent payable hereunder.

ARTICLE 19.  
SURRENDER OF PREMISES

After the Term expires or upon any earlier termination of this Lease, Tenant shall surrender to Landlord the improvements on the Premises in good order, condition, and state of repair, except for reasonable use, wear and tear, and shall remove all property and debris from the Premises.

ARTICLE 20.  
HOLDING OVER

If Tenant continues to occupy the Premises after the Term expires, a tenancy from month-to-month only shall be created subject to all other provisions of this Lease, except that Rent for such hold over period shall be the greater of: (1) the then current rate of interest available to City on a deposit of \$1,440,000.00; or (2) 125% of the current Rent. After May 31, 2005, Landlord may elect to terminate the month-to-month tenancy and Tenant shall vacate the Premises.

ARTICLE 21.  
SERVICE OF NOTICE

Notices, approvals, consents, and other communications to be given under this Lease shall be in writing and shall be sent postage prepaid by United States registered or certified mail, return receipt requested, or sent for delivery on the next business day with a nationally-recognized express courier and

- (a) if intended for Landlord shall be addressed to:

Concordia University  
Attn: Thomas Ries  
275 North Syndicate Avenue  
St. Paul, Minnesota 55104-5494

- (b) if intended for Tenant shall be addressed to:

Board of Water Commissioners  
Attn: General Manager  
8 East Fourth Street, Suite 400  
St. Paul, MN 55101-1007

or to such other address as either party may designate by notice given under this Article. Any notice given under this Article shall be deemed to have been given as of the date such notice is postmarked, if sent by registered or certified mail, or is placed with an express courier, if sent by express courier for delivery on the next business day.

ARTICLE 22.  
SUBORDINATION AND NON-DISTURBANCE

This Lease shall be subject and subordinate to the lien of any mortgage which Landlord may place or have previously placed upon the Premises and to all terms, conditions, and provisions thereof, and to any renewals, extensions, modifications or replacements thereof; provided, however, that if this Lease is in full force and effect and there are no existing Events of Default, Tenant's right of possession to the Premises and Tenant's rights arising out of this Lease shall not be affected or disturbed by the mortgagee in the exercise of any of its rights under the mortgage, or the note secured thereby, nor shall Tenant be named as a party defendant to any foreclosures of the lien of any such mortgage, nor in any other way be deprived of its rights under this Lease, except that Tenant may be served as a party in possession if necessary to complete a mortgage foreclosure. Tenant agrees to attorn to the mortgagee, as its new landlord and this Lease shall continue in full force and effect as a direct lease between Tenant and such mortgagee, upon all the terms, covenants and agreements set forth in this Lease. The parties hereto agree to execute or obtain execution of such reasonable documents as may be necessary to insure compliance with the subordination and non-disturbance provisions of this Article.

ARTICLE 23.  
LANDLORD'S ACCESS TO PREMISES

Landlord shall have the right of access to the Premises at any and all times with reasonable notice for any and all purposes, including but not limited to inspecting the Premises and showing the Premises to prospective purchasers, tenants or lenders.

ARTICLE 24.  
ESTOPPEL CERTIFICATES

Tenant, at any time and from time to time, upon not less than ten (10) business days prior written request by Landlord, shall deliver to Landlord an executed and acknowledged statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there has been any modification(s) thereof that the same is in full force and effect as modified, and stating the nature of the modification or modifications); (ii) that to Tenant's knowledge, Landlord has fulfilled all of Landlord's obligations under the Lease and is not in default under this Lease (or if any such default exists, the specific nature and extent thereof); (iii) the Commencement Date and the expiration date of the current term of the Lease; (iv) the amount of annual Rent; (v) the date to which rent and other charges have been paid in advance, if any; and (vi) such additional information as may be requested by Landlord.

Each certificate delivered to Landlord pursuant to this Article may be relied upon by Landlord and by (a) any prospective purchaser or transferee of the Premises or of Landlord's interest hereunder, and (b) any lender of Landlord or by any assignee of any such lender.

ARTICLE 25.  
QUIET ENJOYMENT

Landlord agrees that, contingent upon Tenant's continued compliance with all of the terms and conditions of this Lease, Tenant shall quietly and peaceably hold, possess, and enjoy the Premises for the full Term.

ARTICLE 26.  
FORCE MAJEURE

Unless expressly provided otherwise, a party shall not be liable to the other for delays or failures in performance of any of its obligations under this Lease (except Tenant's obligation to pay rent or any other amounts) because of acts of God; acts of a public enemy; acts of war, whether declared or undeclared; insurrections; riots; fires; explosions; accidents; epidemics; quarantine restrictions; acts of government; failures of transportation; freight embargoes; strikes or other labor disputes causing work to be stopped, slowed, or interrupted; or any other force majeure, provided that such delays or failures were beyond that party's reasonable control and were not caused by its fault or negligence. If a delay or failure of performance occurs that is excusable under this provision, the period for performance shall be extended for a time equal to the time lost because of the force majeure.

ARTICLE 27.  
MISCELLANEOUS

- (a) Amendments. This Lease may be amended only by a writing that is executed and delivered by both Landlord and Tenant.
- (b) Captions. The captions of the Articles and subsections of this Lease are inserted only for convenience and are not to be construed as a part of this Lease or as a limitation of the scope of the particular Articles or subparagraphs to which they refer.
- (c) Severability. The invalidity or unenforceability of one provision of this Lease will not affect the validity or enforceability of the other provisions.
- (d) Waiver. A party shall not be deemed to have made a waiver under this Lease as to any right, privilege, obligation, condition, default, or breach unless it does so in writing. The mere failure of a party to act to enforce any provision of this Lease shall not be considered a waiver and shall not prevent that party from enforcing any provision of this Agreement in the future.
- (e) Integration. This Lease, together with the attached exhibit, is the entire agreement between the parties as to the subjects covered herein, and no representations, warranties, projections, inducements, promises, understandings, assurances, or agreements (whether express or implied, or whether oral or written) made before the

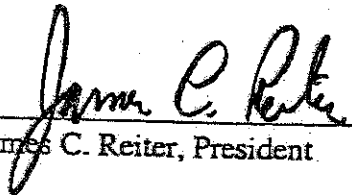
execution of this Lease, will change its terms or have any binding effect on either party.

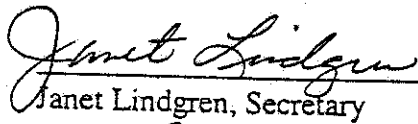
- (f) Law. This Lease shall be governed by the Law of the State of Minnesota.

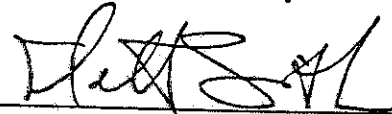
IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written, intending to be legally bound thereby and warranting authority to execute the same.

**TENANT:**

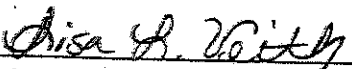
Board of Water Commissioners of the  
City of Saint Paul


  
James C. Reiter, President

  
Janet Lindgren, Secretary

  
Matthew G. Smith, Director  
Office of Financial Services

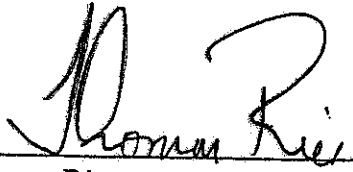
APPROVED AS TO FORM:

  
Assistant City Attorney

  
Bernie R. Bullert, General Manager  
Saint Paul Regional Water Services

**LANDLORD:**

Concordia University, St. Paul

  
Thomas Ries  
Its: Vice President, Finance and Operations

Schedule I

Legal Description

Parcel 1:

Lot 13, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota; except the North 32 feet of said Lot 13, and except that part of said Lot 13 described as follows:

Beginning at the southwest corner of said Lot 13; thence South 89 degrees 54 minutes 38 seconds East, assumed bearing, along the south line of said Lot 13 a distance of 46.05 feet; thence North 00 degrees 02 minutes 00 seconds East 64.21 feet; thence North 89 degrees 54 minutes 38 seconds West 46.05 feet to the west line of said Lot 13; thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13 to the point of beginning.

Parcel 2:

That part of Lot 15, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota, described as follows:

Beginning at the northwest corner of Lot 13 in said subdivision; thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13, a distance 134.00 feet; thence southwesterly to the intersection with the south line of said Lot 13 extended West and the east line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad in Lot 15; thence North 00 degrees 08 minutes 43 seconds West along the east line of said right-of-way 154.46 feet more or less to a point 169.00 feet south of the north line of said Lot 15; thence North 10 degrees 46 minutes 25 seconds East 171.71 feet to the point of beginning.

Parcel 3:

The easterly 120.00 feet of the southerly 50.00 feet of the northerly 85.00 feet of Lot 14, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota subject to Hamline Avenue over the east 30.00 feet thereof, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Ramsey County, Minnesota.

Parcel 4:

The north 35.00 feet of the east 155.00 feet of Lot 14, Kittsondale, being Auditor's Subdivision No. 27, St. Paul Minnesota, subject to rights acquired by the City of St. Paul for opening and widening of Hamline Avenue.

Parcel 5:

That part of Lot 15, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota described as follows:

Beginning at the northwest corner of Lot 13, said subdivision, thence South 00 degrees 08 minutes 43 seconds East along the west line of said Lot 13 134.00 feet to the point of beginning; thence South 09 degrees 27 minutes 42 seconds West on a line which intersects the east line of the right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the westerly extension of the south line of said Lot 13 a distance of 126.63 feet; thence North 89 degrees 54 minutes 38 seconds East 21.13 feet to the west line of said Lot 13; thence North 00 degrees 08 minutes 43 seconds West along the west line of said Lot 13 a distance of 124.87 feet to the point of beginning.



PRESENTED BY  
COMMISSIONER \_\_\_\_\_

DATE \_\_\_\_\_

WHEREAS, the Board of Water Commissioners ("Board") did adopt Resolution No. 4852 which declared the 4.44 acre property described below in the City of Saint Paul, Ramsey County, Minnesota to be surplus property, such property also known as the Board's Hamline Storeyard (the "Property"):

Legal Description:

Lot 13, Kittsondale, being Auditor's Subdivision #27 St. Paul, Minnesota; and except the north 32' of said Lot 13; and except that part of said Lot 13 beginning at a point on the west line of said lot, 134' south of the north line of said lot; thence north along the west line of said lot 102'; to a point 32' south of the north line of said lot; thence east parallel with the north line of said lot 53.5'; thence southwesterly along a curve concave to the southeast whose radius is 468.34' to a point of beginning

AND except the following:

located in the SWC of the above described tract

That part of Lot 13, and that part of Lot 15, Kittsondale, being Auditor's Subdivision No. 27, St. Paul, Minnesota, described as follows:

Beginning at the southwest corner of said Lot 13; thence S 89° 54' 38" E, assumed bearing, along the south line of said Lot 13 a distance of 46.05 feet; thence N 0° 02' 00" E 64.21 feet; thence N 89° 54' 38" W 46.05 feet to the west line of said Lot 13; thence continuing N 89° 54' 38" W to a line described as follows:

Beginning at the Northwest corner of Lot 13 of the aforesaid Subdivision; thence South along the West line of said Lot 13, 134 feet to the beginning of the line to be described; thence in a Southwesterly direction to the intersection of the Southerly line of said Lot 13 when produced in a Westerly direction and the East line of the right of way of the Chicago Milwaukee St. Paul and Pacific Railroad Company in Lot 15 of the aforesaid Subdivision, and there terminating;

Water Commissioners

Yeas \_\_\_\_\_

Nays \_\_\_\_\_

Adopted by the Board of Water Commissioners

\_\_\_\_\_  
19\_\_\_\_

In favor \_\_\_\_\_

Opposed \_\_\_\_\_