

SUBORDINATION AGREEMENT

among

CITY OF SAINT PAUL, MINNESOTA,
PORT AUTHORITY OF THE CITY OF SAINT PAUL,
DISTRICT ENERGY ST. PAUL, INC.,

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee and Credit Provider,

Dated as of June 1, 2012

This instrument drafted by:

LEONARD, STREET AND DEINARD (RH)
Professional Association
150 South 5th Street, Suite 2300
Minneapolis, MN 55402

SUBORDINATION AGREEMENT
[District Energy]

THIS SUBORDINATION AGREEMENT is made and entered into as of the 1st day June 1, 2012 by and among

- (i) the City of Saint Paul, Minnesota, a home rule charter city and municipal corporation organized under the laws of the State of Minnesota (the “City”),
- (ii) the Port Authority of the City of Saint Paul, a body corporate and politic duly organized and existing under the laws of the State of Minnesota (the “Port Authority”),
- (iii) District Energy St. Paul, Inc., a Minnesota nonprofit corporation (f/k/a District Heating Development Company) (“District Energy”),
- (iv) U.S. Bank National Association, national banking association (“Trustee”), as Trustee for the Port Authority’s Tax-Exempt Variable Rate District Heating Revenue Bonds, 2012-5 Series T in the principal amount of \$5,000,000 (the “Series T Bonds”) and Taxable Variable Rate District Heating Revenue Bonds, 2012-6 Series U in the principal amount of \$1,205,000 (the “Series U Bonds,” and together with the Series T Bonds, the “Series 2012 Bonds”) to be issued by the Port Authority on or after the date of the execution hereof; and
- (v) U.S. Bank National Association (the “Credit Provider”), as the letter of credit provider with respect to the Series 2012 Bonds and as a co-mortgagee with the Trustee under the District Energy Bond Mortgage (as defined herein) as amended.

WITNESSETH:

WHEREAS, the City of Saint Paul, was awarded an Urban Development Action Grant (No. B-81-AA-0028, the “UDAG”) for the purposes of the district heating system (the “District Heating System”) owned and operated by District Energy; and

WHEREAS, in connection with the development of the District Heating System, the City made a loan to District Energy from the proceeds of the UDAG pursuant to a City Loan Agreement dated as of December 1, 1982 as amended from time to time, including amendments dated as of December 1, 1985, August 5, 1988, and July 1, 1997 and a Global Amendment to District Heating Documents and Supplemental Mortgage dated as of December 1, 2007 (the “Global Amendment”) (collectively, the “City District Energy Loan Agreement”), and the City District Energy Loan Agreement also provided for loans to District Energy by the City of Community Development Block Grant and tax increment funds, all of which loans, in the principal amounts described on Exhibit A hereto, and the obligations of District Energy under the City District Energy Loan Agreement, are secured by that certain Mortgage, Fixture Financing Statement and Security Agreement dated as of December 1, 1982, recorded December 21, 1982 as Document No. 2164537 (Abstract) and recorded December 20, 1982 as Document No. 730851 (Torrens) in Ramsey County, Minnesota, as such mortgage may have from time to time been thereafter amended, encumbering

the real property legally described in Schedule A (collectively, the “District Energy City Mortgage”); and

WHEREAS, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “HRA”) has previously issued its Variable Rate Demand Purchase District Heating Revenue Bonds in 1982, 1985, 1997 and 1999 and has loaned the proceeds thereof to District Energy for the purpose of financing the District Heating System all of which bonds have since been repaid; and

WHEREAS, the Port Authority has, pursuant to a Joint Powers Agreement with the HRA dated as of April 1, 2003 (the “District Energy Joint Powers Agreement”), previously issued its Variable Rate District Energy Revenue Bonds in 2003, 2005, 2006, January 2009 and September 2009 (together, the “District Energy Bonds”) and has loaned the proceeds of such Bonds to District Energy for purposes of financing the District Heating System; and

WHEREAS, District Energy has proposed that the Port Authority issue its Series 2012 Bonds, in one or more series in the aggregate principal amount of approximately \$6,205,000 to provide funds to finance improvements to the District Heating System; and

WHEREAS, the Series 2012 Bonds are to be issued by the Port Authority pursuant to the District Energy Joint Powers Agreement; and

WHEREAS, the City has previously authorized and executed certain subordination agreements pursuant to which the City has subordinated the liens and security interests granted in the District Energy City Mortgage to the rights of the Trustee under the mortgages from time to time, securing the outstanding District Energy Bonds; and

WHEREAS, the Credit Provider has agreed to issue its direct pay irrevocable transferable Letters of Credit (collectively the “Letters of Credit”) to secure the Series 2012 Bonds, and District Energy and the Credit Provider have entered into a Letter of Credit Reimbursement Agreement dated as of June 1, 2012 (the “Reimbursement Agreement”) to provide for the reimbursement by District Energy to the Credit Provider for any amounts drawn under each Letter of Credit; and

WHEREAS, pursuant to the Reimbursement Agreement, and in connection with the Series 2012 Bonds, District Energy has granted to the Credit Provider and the Trustee a first lien mortgage interest in certain real property and assets (collectively the “Mortgage District Energy Property”) pursuant to that certain Amended and Restated Mortgage, Assignment of Rents, Fixture Financing Statement and Security Agreement dated as of September 1, 2009, recorded September 14, 2009 as Document No. 4181698 (Abstract) and recorded September 14, 2009 as Document No. 2086499 (Torrens) in Ramsey County, Minnesota, as such mortgage may from time to time hereafter be amended, encumbering certain real property including the real property legally described in Schedule A (the “District Energy Bond Mortgage”) between District Energy, as mortgagee and debtor, U.S. Bank National Association, as Trustee and Credit Provider, and Deutsche Bank AG New York Branch, as co-mortgagees and co-secured parties; the District Energy Bond Mortgage shall secure an aggregate principal indebtedness of \$49,630,000, as described on Exhibit B hereto; and

WHEREAS, District Energy has requested the City to subordinate its lien and encumbrance under the District Energy City Mortgage to the lien and encumbrance of the District Energy Bond Mortgage.

NOW THEREFORE, in consideration of these presents and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Subordination Agreement agree as follows:

(1) Subordination and Consent. Subject to the provisions of Section (2), the District Energy City Mortgage, all debt secured thereby, and all liens, rights, titles, and interests created in favor of the City thereunder or any subsequent holder of the debt secured thereby, are hereby made subordinate, junior and inferior in all respects to the security interests in the Mortgaged Property created by the District Energy Bond Mortgage, and the indebtedness secured thereby. The City hereby consents to the issuance of the Series 2012 Bonds, the loan of the proceeds thereof to District Energy and the execution of the District Energy Bond Mortgage. For the removal of doubt, the rights of the City and/or the HRA to insurance proceeds, condemnation proceeds or other proceeds related to the property encumbered by the District Energy City Mortgage are hereby subordinated to the rights of the Trustee and the Bank under the District Energy Bond Mortgage, and the Trustee and the Credit Provider will control the disposition of such funds in their sole and absolute discretion.

(2) Term of Agreement. This Agreement shall be a continuing agreement, and it shall remain in full force and effect with respect to the parties until such time as the loans of the proceeds of the Series 2012 Bonds and the City Loan are repaid in full in cash and all amounts due and owing to the Credit Provider under the Reimbursement Agreement are paid in full in cash, and all obligations under the District Energy Bond Mortgage are fully satisfied and discharged.

(3) Representations and Warranties. The City represents and warrants to the Trustee and to the Credit Provider, that it is the sole holder and owner of the security interest and mortgage subordinated by this Agreement and the sole holder of the debt instrument secured by the District Energy City Mortgage, and that it has not transferred and will not transfer such security interest and mortgage, or the instrument evidencing the debt secured by the District Energy City Mortgage, without such assignment or transfer being made expressly subject to the terms of this Agreement. Each party warrants to the other parties to this Agreement that they have full right, power and authority to enter into this Agreement, and that this Agreement has been duly authorized, executed and delivered, and that this Agreement is valid, binding and enforceable in accordance with its terms upon each of the parties to this Agreement, except only as such enforceability may be limited by bankruptcy, moratorium, reorganization or other laws, or principles of equity affecting creditor's rights.

(4) Notice. Each party hereto shall furnish to other party a copy of any notice of the occurrence of any Event of Default that such party may issue with respect to the Series 2012 Bonds, the District Energy City Loan Agreement, the District Energy City Mortgage, the Reimbursement Agreement, the District Energy Bond Mortgage or any other documents executed and delivered in connection with the foregoing, within five days of issuing such notice, and at least ten days prior to initiating foreclosure upon any of the Mortgaged Property, provided, however, that the failure to give such notice shall in no way adversely affect the

enforceability of this Agreement or the subordination of the District Energy City Mortgage. All notices required to be given under this Agreement shall be in writing and may be given via courier or overnight delivery or by United States mail, certified mail, return receipt requested and postage prepaid, addressed to the party to whom notice is being given at the address set forth for the receipt of notice in this Agreement, or at such other address as the party to whom notice is being given has notified the other parties as to where such party wishes to receive notices pursuant to this Agreement.

To the Trustee: U.S. Bank National Association
Corporate Trust Services
60 Livingston Avenue
St. Paul, Minnesota 55107
Attn: Corporate Trust Department

To the City: City of Saint Paul
City Hall
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
Attn: Treasurer

To the Port Authority: Port Authority of the City of Saint Paul
345 St. Peter Street
900 Landmark Towers
Saint Paul, Minnesota 55102
Attn: President

To the Company: District Energy St. Paul, Inc.
Hans O. Nyman Energy Center
76 West Kellogg Boulevard
St. Paul, Minnesota 55102-1611
Attn: President

To the Credit Provider: U.S. Bank National Association
EP-MN-S22C
101 East Fifth Street
St. Paul, Minnesota 55101
Attn: Michael McGroarty

With a copy to the Original Purchaser: Piper Jaffray & Co.
U.S. Bank Center
800 Nicollet Mall, 13th Floor
Minneapolis, Minnesota 55402
Attn: Public Finance Services

(5) Successors and Assigns, Choice of Law, Entire Agreement. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and assigns. This Agreement shall be governed by the laws of the

State of Minnesota, and the parties to this agreement consent to the non-exclusive jurisdiction of the courts of the State of Minnesota, located in Ramsey County, Minnesota and the United States District Court for the District of Minnesota in respect of any litigation concerning their respective rights or obligations under this Agreement. This Agreement constitutes the entire agreement between the parties.

(6) Counterparts. This Agreement may be simultaneously executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitute, collectively, one and the same agreement; but in making proof of this agreement, it shall not be necessary to produce or account for more than one such counterpart.

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PORT AUTHORITY OF THE CITY OF SAINT
PAUL

By _____
Its President

By _____
Its Chief Financial Officer

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____,
2012 by Louis F. Jambois, the President and Laurie J. Hansen, the Chief Financial Officer of the
Port Authority of the City of Saint Paul, on behalf of said public body.

Notary Public

(SEAL)

SCHEDULE A

LEGAL DESCRIPTION

LOTS 1, 2, 3, 4, 5, 6 AND 7, ALL IN BLOCK 21, RICE AND IRVINE'S ADDITION, RAMSEY COUNTY, MINNESOTA.

EXCEPT THOSE PARTS OF LOTS 6 AND 7, BLOCK 21, RICE AND IRVINE'S ADDITION TO ST. PAUL, ACCORDING TO THE RECORDED PLAT THEREOF, RAMSEY COUNTY, MINNESOTA, AND THAT PART OF THE SOUTHEASTERLY HALF OF HILL STREET, NOW VACATED, AS DEDICATED IN SAID RICE AND IRVINE'S ADDITION TO ST. PAUL ADJOINING SAID LOTS 6 AND 7 DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF THE EASTERLY 25.00 FEET OF LOT 5, SAID BLOCK 21; THENCE SOUTHWESTERLY, ALONG THE NORTHERLY LINE OF SAID LOTS 5, 6 AND 7, A DISTANCE OF 131.59 FEET TO THE POINT OF BEGINNING OF A LINE HEREINAFTER REFERRED TO AS "LINE A, " SAID POINT BEING THE POINT OF BEGINNING OF THE LAND TO BE DESCRIBED; THENCE SOUTHEASTERLY DEFLECTING TO THE LEFT 104 DEGREES 53 MINUTES 10 SECONDS A DISTANCE OF 69.63 FEET AND SAID "LINE A" THERE TERMINATING; THENCE NORTHERLY DEFLECTING TO THE LEFT 142 DEGREES 14 MINUTES 53 SECONDS A DISTANCE OF 93.47 FEET TO CENTERLINE OF SAID HILL STREET; THENCE SOUTHWESTERLY, ALONG SAID CENTERLINE OF HILL STREET, A DISTANCE OF 59.18 FEET TO THE NORTHWESTERLY EXTENSION OF SAID "LINE A"; THENCE SOUTHEASTERLY, ALONG SAID NORTHWESTERLY EXTENSION OF "LINE A", A DISTANCE OF 19.34 FEET TO THE POINT OF BEGINNING. ALSO EXCEPT THAT PART OF LOT 7 AND VACATED HILL STREET LYING SOUTHWESTERLY OF SAID "LINE A" AND ITS NORTHWESTERLY AND SOUTHEASTERLY EXTENSIONS.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT OF PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS OVER THE DRIVEWAYS, DRIVE AISLES, ROADS AND SIDEWALKS AS MAY FROM TIME TO TIME EXIST ON THE REAL PROPERTY LYING SOUTH OF THE ABOVE-DESCRIBED PROPERTY THAT IS OWNED BY MORTGAGOR TO PROVIDE REASONABLE PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS TO AND FROM THE ABOVE-DESCRIBED REAL PROPERTY TO PUBLIC RIGHT OF WAY.

ABSTRACT PROPERTY

TORRENS PROPERTY

TORRENS CERTIFICATE NO. 300445 (LOT 4)

EXHIBIT A

Outstanding balances of loans due to the City of Saint Paul and/or the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota from District Energy St. Paul, Inc. as of _____, 2012:

City/HRA Loan	\$0.00
City UDAG Loan	\$1,139,732.25
2007 Capital Loan Note	\$5,750,000.00
2007 Franchise Fee Note	\$4,908,734.46
Total	\$11,798,466.71

EXHIBIT B

Aggregate principal bond indebtedness consisting of Outstanding September 2009 Bonds and Series 2012 Bonds.

January 2009 Bonds

<u>Series</u>	<u>Principal Amount</u>
2009-1 Series N	\$12,510,000

September 2009 Bonds

<u>Series</u>	<u>Principal Amount</u>
2009-5 Series O	\$13,435,000
2009-6 Series P	\$ 3,740,000
2009-7 Series Q	\$ 5,585,000
2009-8 Series R	\$ 3,760,000
2009-14 Series S	\$ 4,665,000
Subtotal	\$30,915,000

Series 2012 Bonds

<u>Series</u>	<u>Principal Amount</u>
2012-5 Series T	\$5,000,000
2012-6 Series U	\$1,205,000
Subtotal	\$6,205,000
Grand Total for Bonds	\$49,630,000