

## **WATER UTILITY AGREEMENT – UNITED VILLAGE PHASE I**

THIS WATER UTILITY AGREEMENT (“Agreement”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025 (“Effective Date”), by and between SNELLING-MIDWAY REDEVELOPMENT, LLC, a Minnesota limited liability company (“SMR”) located at 4150 Olson Memorial Highway, Suite 300, Golden Valley, MN 55422, and the BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL, a Minnesota municipal corporation (the “Board”), d/b/a Saint Paul Regional Water Services (“SPRWS”), located at 1900 Rice Street, Saint Paul, MN 55113.

### **Recitals**

- A. The Board has the full authority to introduce water for public consumption in the City of Saint Paul and to construct the necessary infrastructure for such purposes.
- B. The Board, through SPRWS, is responsible for the maintenance of public infrastructure necessary for the provision of drinking water pursuant to Title XI of the Saint Paul Legislative Code.
- C. SMR is developing United Village Phase I pursuant to the Development Agreement dated June 28, 2024, between the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a public body corporate and politic of the State of Minnesota (the “HRA”).
- D. The Board, by virtue of State law and City ordinance, is responsible for ensuring that said construction is done pursuant to SPRWS standards for the Installation of Water Mains dated April 4, 2024 (the “SPRWS Standards”).
- E. The Board shall be responsible for ongoing maintenance of water infrastructure to be installed United Village Phase I in the public right of way (the “Water Infrastructure”) upon transfer of ownership of the Water Infrastructure from SMR to the Board under this Agreement.
- F. In order to allow for the development and construction of United Village Phase I, SMR may need to obtain easements from the Board, or contractors performing work, which would be granted pursuant to a separate agreement.

Now, therefore, in consideration of the foregoing recitals, which are hereby incorporated into this Agreement, and the mutual understandings, promises, undertakings and covenants hereinafter set forth, SMR and the Board hereby agree as follows:

### **1. General Provisions**

- a. The terms “infrastructure” or “Water Infrastructure” used throughout this Agreement shall refer to all pipes, hydrants, meters, connection points, appurtenances, and other similar infrastructure necessary for the efficient, safe, and economical provision of safe drinking water, as contemplated by the Saint Paul City Charter, Saint Paul Legislative Code Title XI, and Chapter 110 of the State of Minnesota Special Laws of 1885.
- b. This Agreement shall be governed by and construed in accordance with the Laws of the State of Minnesota. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled and determined in accordance with the laws of the State of Minnesota, and the parties agree that all legal actions initiated by either party or any of its successors, assigns,

transferees with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued exclusively in the State of Minnesota, Ramsey County, District Court and shall not be removed therefrom to any other federal or state court.

- c. Each of the parties has duly authorized the execution and delivery of this Agreement.
- d. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original instrument.
- e. This Agreement is the full, complete, and entire agreement of the parties with respect to the subjects hereof, and any and all prior writings, representations, and negotiations with respect to those subjects are superseded by this Agreement. This Agreement may be amended only by a writing signed by SMR and the Board, or the successors, assigns, or transferees of either.
- f. The parties agree that the electronic signature of a party to this Agreement will be as valid as an original signature of such party and will be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing, or to which there is affixed, an electronic signature will be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature will not affect the enforceability of this Agreement.

## 2. Assignment

SMR shall not assign, convey, or transfer in any mode or manner this Agreement or any of its interests or responsibilities without the prior written consent of the Board, to be granted or withheld in the reasonable discretion of the Board. Any approval of assignment shall be granted by resolution of the Board and shall not be unreasonably withheld, conditioned, or delayed. The Board shall be entitled to require, as conditions to approval of any assignment, conveyance or transfer of this Agreement or any interest hereunder by SMR, that:

- a. Any proposed assignee shall have the qualifications and financial responsibility, as solely determined by the Board, necessary and adequate to fulfill the obligations undertaken in this Agreement by SMR;
- b. Any proposed assignee, by instrument in writing satisfactory to the Board, shall, for itself and its successors and assigns, and expressly for the benefit of the Board, have expressly assumed all of the obligations of SMR under this Agreement and agreed to be subject to all the conditions and restriction to which SMR is subject;
- c. There shall be submitted to the Board for review all instruments and other legal documents involved in effecting the assignment, conveyance or transfer, and if approved shall be indicated by resolution of the Board.
- d. No such assignment or approval by SPRWS thereof shall be deemed to relieve SMR or any other party bound in any way by this Agreement or otherwise with respect to

construction of water infrastructure at United Village Phase I from any of its obligations with respect thereto unless agreed to in a resolution by the Board.

3. Construction and inspection of Water Infrastructure.

- a. SMR will contract with a contractor to install and construct the Water Infrastructure for United Village Phase I as such Water Infrastructure was approved by the City with the Board's staff input in the 30-60-90 process for United Village Phase I as detailed in United Village Phase I construction plans and specifications prepared by Loucks (the "Plans").
- b. All construction inspection and testing of the Water Infrastructure will be conducted by Board staff in accordance with the most recent version of the SPRWS Standards for the Installation of Water Mains. The Board's staff will perform field inspection services throughout the construction of the Water Infrastructure to verify that all work is completed in accordance with the Plans and SPRWS standards. This will include, but is not limited to:
  - Full-time observation of construction and installation of all water system components prior to backfilling.
  - Verifying materials and methods of construction conform to SPRWS standards.
  - Maintaining accurate records of installed facilities.
  - Verifying workmanship and cleanliness of pipe and fittings.
  - Documenting daily progress and any field changes.
  - Verifying testing protocols are followed.
  - Upon completion of the work, Board staff will compile final inspection records and documentation consistent with SPRWS standards. This may include:
    - Post-walk inspections and punch lists for deficiencies.
    - Pre-acceptance review of punch list item completion.
    - Coordination and review of post-acceptance warranty inspections, typically occurring one year after acceptance.
- c. SMR and the Board will execute all necessary easements and permits, and secure the necessary approvals from SMR, the Board, and the Saint Paul City Council to the extent required by law or policy of the respective bodies.
- d. SMR agrees to pay the costs of construction for the required Water Infrastructure in accordance with the Plan.
- e. SMR agrees to pay the cost of the Board's staff time for inspection and testing during the construction phase.
- f. SMR agrees to pay for time and materials, including overhead and additive rates, for the Board's crews to perform the work to make connections to the existing water main systems and to construct and maintain temporary water systems for existing effected customers adjacent to United Village Phase I, if any.
- g. SMR agrees to install new water facilities to serve United Village Phase I at SMR's expense, as generally depicted in the Plans, incorporated herein by reference.

- h. The Board has reviewed and approved the Plans. The Board will review, approve or deny any changes to the Plans, in accordance with the standards set forth in City of Saint Paul ordinances and charter, State of Minnesota Statutes, and laws of the United States, as applicable.
- i. The Board will review each functional section of the work to ensure it has been completed according to the SPRWS Standards, as defined above. If it deems SPRWS Standards to have been met, street surface has been graded, paved, and certified by the Department of Public Works, and public rights of way have been platted and officially recorded with Ramsey County, the Board will approve the work by issuing a Completion Certificate. Upon issuance of the Completion Certificate, ownership of the Water Infrastructure will transfer to the Board and the Board will assume responsibility for the Operation and Maintenance of the water infrastructure. The date of this issuance shall begin a one-year warranty period during which all repairs and maintenance of the works shall be borne by SMR or its contractors.
- j. SMR shall retain, all records pertinent to the design and construction of the water distribution infrastructure for a period extending ten years following completion of such work and make such records available to SPRWS for review and copying. All data generated is governed by the Minnesota Government Data Practices Act, Chapter 13 of the statutes of the State of Minnesota.
- k. SMR agrees to assign, without recourse against SMR, to the Board all warranties from any contractor constructing the water infrastructure under the Plans.
- l. Any default by either party in the performance of its obligations hereunder that remains uncured after ten calendar days written notice of such default by a party to the non-performing party entitles the non-defaulting party to remedies afforded at law and in equity; provided that, if and so long as a party is using reasonable and diligent efforts to cure its default, the period to cure such default shall be extended for up to sixty days.
- m. This Agreement does not convey any interest in real estate and shall not be recorded be either party.

*[The remainder of this page left blank. Signature page follows.]*

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the Effective Date.

Approved as to form:

**BOARD OF WATER COMMISSIONERS OF  
THE CITY OF SAINT PAUL**

By: \_\_\_\_\_  
Racquel Vaske, General Manager  
Saint Paul Regional Water Services

By: \_\_\_\_\_  
Mara Humphrey, President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Megan Hafner  
Assistant City Attorney

By: \_\_\_\_\_  
Mollie Gagnelius, Secretary

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Laura Logsdon, Interim Director  
Office of Financial Services

Date: \_\_\_\_\_

SNELLING-MIDWAY REDEVELOPMENT, LLC

By \_\_\_\_\_  
William W. McGuire, Chief Manager