

ASSIGNMENT AND ASSUMPTION OF  
PRIVATE WATER MAIN AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF PRIVATE WATER MAIN AGREEMENT (this "**Assignment**") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between BLOOMER PROPERTIES, LLC, a Minnesota limited liability company ("**Assignor**"), and EFN WAYZATA PROPERTIES, LLC, a Illinois limited liability company ("**Assignee**").

RECITALS:

A. On even date herewith Assignor has conveyed to Assignee the real property located at 3000 Maplewood Drive, Maplewood, Minnesota, legally described on Exhibit A attached hereto and made a part hereof (the "**Real Property**").

B. The Real Property is subject to a Private Water Main Agreement ("**Water Agreement**") dated November 14, 2006, by and between Assignor, the City of Maplewood and the Board of Water Commissioners of the City of Saint Paul ("**Board**").

C. Assignor desires to assign to Assignee all of Assignor's right, title and interest in the Water Agreement, and Assignee desires to accept such assignment and assume such obligations first arising under such assignment from and after the date hereof, including, but not limited to the provisions of Section 10 of the Agreement.

NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby conveys, assigns, transfers, and sets over unto Assignee, all Assignor's right, title and interest, in and to the Water Agreement.

2. Assumption. Assignee does hereby accept the foregoing Assignment subject to the terms and conditions herein contained, and does hereby assume as of the date hereof and become responsible for and agree to perform, discharge, fulfill and observe all obligations, covenants, conditions and provisions first accruing from and after the date hereof with respect to the above-described Water Agreement, including, but not limited to the provisions of Section 10 of the Agreement.

3. Indemnification. Assignor agrees to indemnify, defend and hold Assignee harmless from and against any claims asserted against Assignee regarding the Water Agreement and shall reimburse Assignee for any costs and expenses incurred in connection with such claims, including reasonable attorneys' fees related to such claims, to the extent such claims arise out of the failure of Assignor to comply with or to perform any obligation regarding the Water Agreement accruing prior to the Effective Date. Assignee agrees to indemnify, defend and hold Assignor harmless from and against any claims asserted against Assignor regarding the Water Agreement and shall reimburse Assignor for any costs and expenses incurred in connection with such claims, including reasonable attorneys' fees related to such claims, to the extent such claims arise out of the failure

of Assignee to comply with or to perform any obligation regarding the Intangible Property first accruing on or after the Effective Date.

4. Miscellaneous. This Assignment shall inure to the benefit of and be binding upon Assignor and Assignee and their respective successors and assigns. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original and together which shall constitute one and the same agreement.

[Remainder of the page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment as of the \_\_\_\_ day of \_\_\_\_\_, 2018, which instrument is effective this date.

ASSIGNOR:

BLOOMER PROPERTIES, LLC, a Minnesota  
limited liability company

By: \_\_\_\_\_  
Name: William S. Bloomer III  
Title: its Manager

ASSIGNEE:

EFN WAYZATA PROPERTIES, LLC,  
an Illinois limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT A**

Lots 1 Block 1, Trout Land, Ramsey County, Minnesota.

The description of the registered portion is: That part of Lot, Block 1, Trout Land, lying East of the West line of Section 3, Township 29, Range 22 (Certificate of Title No. 554858)

Abstract & Torrens