

EASEMENT AND MAINTENANCE AGREEMENTS

This Easement and Maintenance Agreement (referred to herein as the "**Agreement**") is made this ___ day of _____, 2018, by and between SBA LLC, and its heirs, successors and assigns (referred to herein as "**SBA**"), and 722 Grand Avenue Corporation, a Minnesota nonprofit corporation, and its heirs, successors and assigns (referred to herein as "**722 Grand**").

RECITALS

A. SBA is the fee owner of the real property described on Exhibit A hereto (the "SBA Property"), St. Paul, Ramsey County, Minnesota.

B. 722 Grand is the fee owners of the real property described on Exhibit B hereto (the "722 Grand Property"), St. Paul, Ramsey County, Minnesota.

C. SBA and 722 Grand are hereinafter referred to collectively as the Owners.

D. SBA desires to erect a building located closer than six feet to the lot line located between the SBA Property and the 722 Grand Property. Section 66.431(e) of the St. Paul City Code requires an easement to be granted by the adjacent property owner if a building containing walls or other structures facing the adjacent lot's line contains windows or other openings and is built closer than six feet of the adjacent property line. The purpose of the easement is to ensure adequate supply of sunlight and air to adjacent property; sufficient space for maintenance of the building from the same lot; and prevention of damage to adjoining property by fire or runoff from roofs. SBA desires the grant of such an easement and maintenance agreement from 722 Grand and 722 Grand agrees to grant such an easement and maintenance agreement pursuant to the terms memorialized herein.

E. A side walk on the 722 Grand Property is located along the adjacent lot line between the 722 Grand Property and the SBA Property and a retaining wall runs along the

adjacent property line to both support the side walk on the 722 Grand Property and to act as a division between the two lots. SBA also desires to erect a sidewalk along the retaining wall and sidewalk on the SBA Property. The Owners desire a shared easement and maintenance agreement for the erection and maintenance of the retaining wall and respective sidewalks and the Owners agree to grant such an easement and maintenance agreement pursuant to the terms memorialized herein.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants of the Owners hereinafter expressed, and other good and valuable consideration, the receipt and sufficiency of which each Owner hereby acknowledges, the Owners agree as follows:

LOT LINE EASEMENT AND MAINTENANCE AGREEMENT

1. Grant of Easement to SBA. 722 Grand hereby grants, bargains and conveys unto the SBA, the following: an exclusive, perpetual right and easement for the erection of a building, and maintenance thereof, closer than six feet to the shared lot line between the 722 Grand Property and the SBA Property and as shown substantially in conformance with the site plan attached as Exhibit C hereto (the "Building");

2. Consent Encroachments. 722 Grand hereby agrees that the Building does not preclude the 722 Grand Property from obtaining adequate sunlight and air and 722 Grand affirmatively waives any future right to object to receiving adequate sunlight and air due to the Building.

3. Damage to Property. SBA shall indemnify and hold 722 Grand harmless from damage to fire or runoff from the roof of the Building, due to the grant of this easement and maintenance agreement. Nothing contained in this Agreement shall affect the common law or statutory rights of the Owners for the negligent or willful acts or omissions of the other Owner.

4. Reasonable Access to 722 Property. 722 Grand, further grants the SBA or its respective heirs, successors and assigns reasonable access to the 722 Grand Property in order to erect, repair, maintain and restore the Building so long as SBA restores the 722 Grand Property after use and any use shall be done in full compliance with all applicable statutes, codes, ordinances, rules and regulations.

5. Costs. SBA, its heirs, successors and assigns shall be solely responsible for all costs relating to its maintenance, erection, repair and restoration of the Building, including timely reimbursement of any tangible out of pocket costs or losses born by 722 Grand due to loss of use during any period of time that the 722 Grand Property is used by SBA to erect, repair, maintain and restore the Building.

RETAINING WALL EASEMENT AND MAINTENANCE AGREEMENT

6. Shared Retaining Wall Easement. SBA hereby grants, bargains and conveys to 722 Grand and 722 Grand hereby grants, bargains and conveys to SBA an appurtenant, perpetual, exclusive easement for the erection and maintenance of a shared retaining wall

located as noted as the Proposed Retaining Wall and Railing on the attached Exhibit C (the "Retaining Wall Easement") and built in substantial conformance to the Retaining Wall depicted on the design plan attached hereto as Exhibit D.

7. Erection of Retaining Wall and Replacement of 722 Grand Property Sidewalk.

SBA, in consideration of 722 Grand's grant of the Lot Line Easement and Maintenance Agreement agrees to pay the full costs of the initial erection of the retaining wall depicted in Exhibit C and Exhibit D and the initial costs of replacement of the concrete sidewalk located on the 722 Grand Property and depicted in Exhibit C and D required for erection of the retaining wall. Thereafter, the parties agree to share the costs of maintenance and repair of the retaining wall and sidewalks as set forth herein.

8. Negative Covenants. The Owners shall not: (i) interfere with the other's use of the sidewalks located on either side of the retaining wall; (ii) cause their respective sidewalks to fall in to disrepair and damage the retaining wall or the other owner's sidewalk; or (iii) use the retaining wall in a manner which is contrary to the terms of this Agreement.

9. Repairs and Maintenance. After erection of the retaining wall and sidewalks depicted in Exhibit C and Exhibit D, the Owners shall share equally the costs and expenses necessary repair and maintenance of the retaining wall and the Owners shall be solely responsible for any maintenance and repair associated with the sidewalk located on their respective property unless said costs are an ancillary and necessary result of any repair or maintenance of the retaining wall in which case said costs shall be shared equally. All maintenance and repair work done to the retaining wall and the parties' respective sidewalks shall be done: (i) in such manner as to not unreasonably interfere with the normal use and enjoyment of either property; (ii) in full compliance with all applicable statutes, codes, ordinances, rules and regulations; (iii) with materials, equipment and design and engineering standards, equal to or better than those originally used; and (iv) in a good and workmanlike manner.

10. Access to Property. The Owners grant reasonable access to their respective properties for erection, maintenance and repair of the retaining wall and the other owner's sidewalk so long as the property being used restored after use; any tangible out of pocket costs due to loss of use of said property shall be considered a cost and expense pursuant to this Agreement; and any use shall be done in full compliance with all applicable statutes, codes, ordinances, rules and regulations.

11. Damage. Notwithstanding the above, if an Owner is responsible for willfully or negligently damaging the retaining wall, or the damage is solely caused by a Party's permittee, contractor, employee, agent, guest or licensee, said owner shall be fully responsible (i.e. 100%) for the cost of repairing such damage.

GENERAL

12. **Default: Remedies.** If an Owner defaults under any obligation under this Agreement, and such default continues for 30 days after receipt of written notice from the non-defaulting, benefitted Owner, the non-defaulting, benefitted Owner, may exercise one or more of the following remedies:

- a. Cure the default and charge the cost thereof to the defaulting Owner, and all such costs shall be payable on demand and shall bear interest from the date of demand until paid in full at a per annum rate equal to the prime rate of interest of U.S. Bank National Association (or any successor) plus three percent (3.0%);
- b. Apply for injunctive relief and/or specific performance; or
- c. Exercise any other remedy at law or in equity.

Notwithstanding the foregoing, no breach of this Agreement shall entitle any Owner to cancel, rescind or otherwise terminate the Agreement, the several covenants in this Agreement all being independent covenants. Any action seeking one or more form of relief shall not be a bar to an action at the same or subsequent time seeking other or alternative forms of relief. In any such action, the prevailing Owner shall be entitled to an award of its costs and reasonable attorneys' fees. No delay or forbearance by a non-defaulting Owner shall be deemed a waiver of the subject default or any subsequent default of a similar nature, and no waiver of any right and remedy hereunder shall be effective unless in writing and signed by the person against whom the waiver is claimed.

13. **Good Faith and Fair Reading.** It is the intention of the Owners that the rights and easements hereby created and granted are to be used and maintained in a manner consistent with the best interests of the Owners. To this end, whenever a matter arises which is not covered specifically by the terms of this Agreement, the Owners covenant that they will deal fairly and attempt to resolve the matter in good faith, and in keeping with the spirit of the express agreements contained herein.

14. **Notices.** Notices required under this Agreement shall be given in writing, delivered either by hand or by U.S. Mail, first class service, postage prepaid, to the home address of the applicable benefitted or burdened Owner, such address being that of the house located on the applicable Property identified herein.

15. **Modification.** This Agreement may not be terminated, amended, supplemented or modified except by a written instrument executed by all the then owners.

16. **Successors and Assigns.** The terms and conditions of this Agreement shall constitute covenants and servitudes running with the land, burdening and benefitting the 722 Grand Property and the SBA Property as stated herein, and shall be binding upon and for the benefit of the Owners and their respective heirs, personal representatives, devisees, administrators, tenants, successors and assigns, and any other persons who acquire a possessory interest in any portion of the subject property by operation of law or other legal

722 Grand Avenue Corporation

By: Cale Nelson
Its:President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by 722 Grand Avenue Corporation, a Minnesota non-profit corporation, by Cale Nelson, its President.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Amanda Bloomgren
Bloomgren Hanson Legal
903 Mainstreet, Ste. A
Hopkins, MN 55343

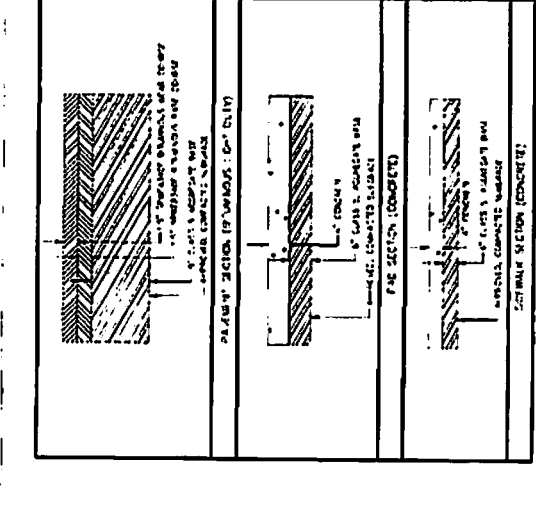
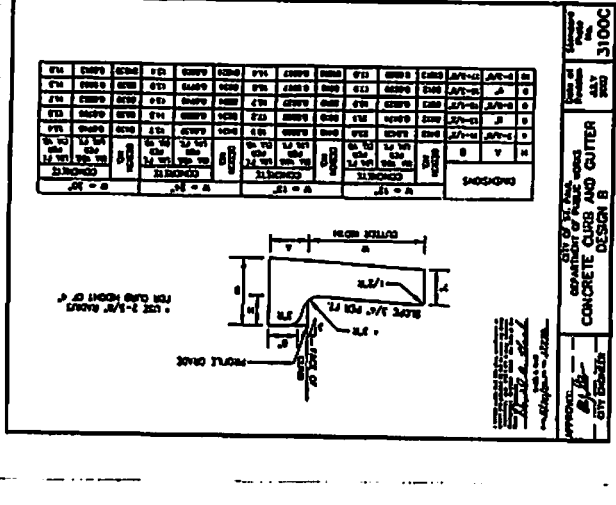
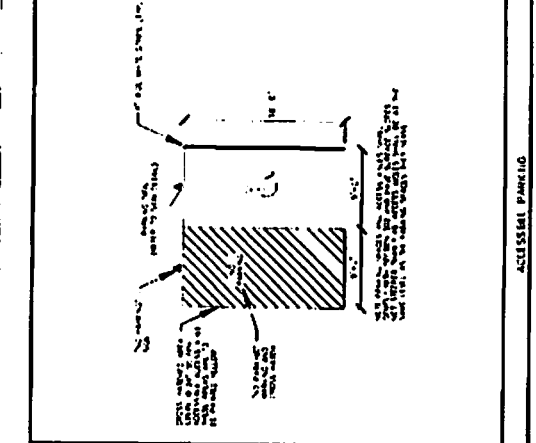
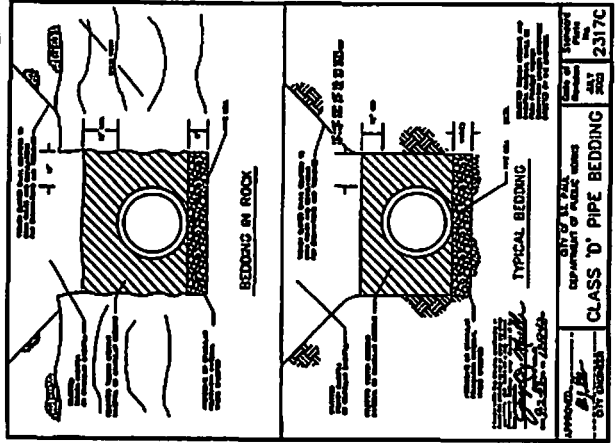
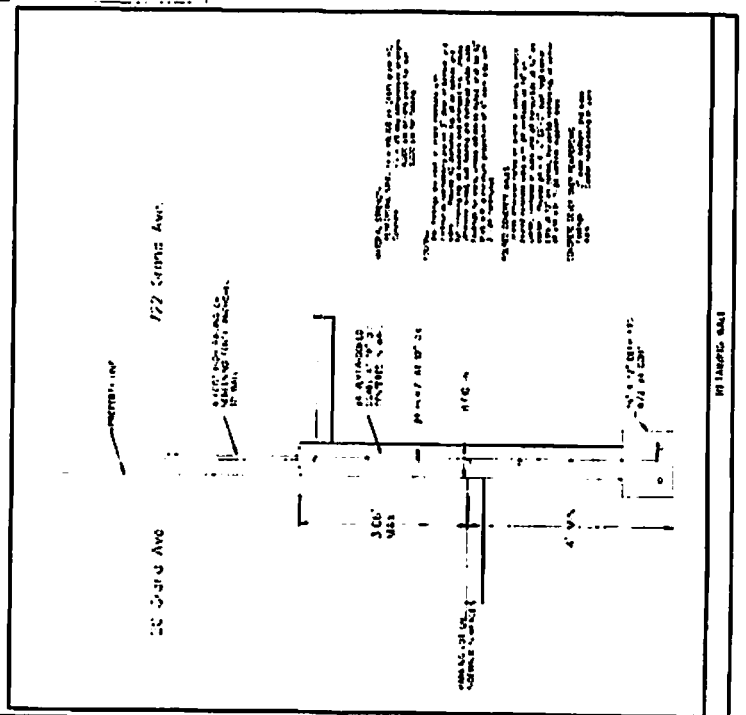
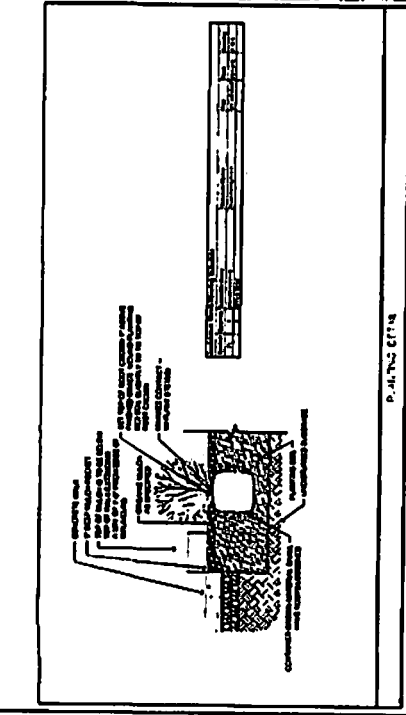
EXHIBIT A

Lot 10, Block 5, Summit Park Addition to St. Paul, County of Ramsey, State of Minnesota

EXHIBIT B

Lot 10, Block 5, Summit Park Addition to St. Paul, County of Ramsey, State of Minnesota

EXHIBIT D



720 GRAND AVENUE
ST PAUL, MN
57415

SHEET
C40

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CONCRETE CURB AND GUTTER	100	LF	31.00	3100.00
2	CONCRETE	100	CY	10.00	1000.00
3	MANHOLE COVER	1	EA	100.00	100.00
4	MANHOLE RING	1	EA	100.00	100.00
5	PIPE	100	LF	1.00	100.00
6	ROCK	100	CY	1.00	100.00
7	CONCRETE	100	CY	1.00	100.00
8	CONCRETE	100	CY	1.00	100.00
9	CONCRETE	100	CY	1.00	100.00
10	CONCRETE	100	CY	1.00	100.00
11	CONCRETE	100	CY	1.00	100.00
12	CONCRETE	100	CY	1.00	100.00
13	CONCRETE	100	CY	1.00	100.00
14	CONCRETE	100	CY	1.00	100.00
15	CONCRETE	100	CY	1.00	100.00
16	CONCRETE	100	CY	1.00	100.00
17	CONCRETE	100	CY	1.00	100.00
18	CONCRETE	100	CY	1.00	100.00
19	CONCRETE	100	CY	1.00	100.00
20	CONCRETE	100	CY	1.00	100.00
21	CONCRETE	100	CY	1.00	100.00
22	CONCRETE	100	CY	1.00	100.00
23	CONCRETE	100	CY	1.00	100.00
24	CONCRETE	100	CY	1.00	100.00
25	CONCRETE	100	CY	1.00	100.00
26	CONCRETE	100	CY	1.00	100.00
27	CONCRETE	100	CY	1.00	100.00
28	CONCRETE	100	CY	1.00	100.00
29	CONCRETE	100	CY	1.00	100.00
30	CONCRETE	100	CY	1.00	100.00

720 GRAND AVENUE
ST PAUL, MN
57415

SHEET
C40

RESOLUTIONS OF OWNERS

OF

722 GRAND AVENUE CORPORATION

The undersigned, being all the owners of 722 Grand Avenue Corporation, acting pursuant to the provisions of Minnesota Statutes Section 317A, Minnesota Statutes 515A, and the Declaration of Condominium Number 122 Grand Avenue Condominium, adopts the following Resolution(s) effective the ___th day of _____, 2018:

WHEREAS, 722 Grand Avenue Corporation has determined it is in its best interests that it enter into an easement agreement with the owners of 720 Grand Avenue in order to address the location of the 720 Grand building and the shared retaining wall located between 722 Grand and 720 Grand;

RESOLVED, Cale Nelson, President of the 722 Grand Avenue Corporation shall have the authority to act on behalf of the 722 Grand Avenue Corporation to take the actions necessary to enter into the easement agreement with the 720 Grand Avenue owners.

Date: _____

By _____
Matt Hozza, Unit A

Date: _____

By _____
David Hozza, Unit A

Date: _____

By _____
Angela Fryer, Unit B

Date: _____

By _____
Diego Bonta, Unit B

Date: _____

By _____
Cale Nelson, Unit C

Date: _____

By _____
Rian Harrington, Unit D

722 Grand Avenue Corporation

Date: _____

By _____
Cale Nelson
Its: President