

DRAFTED BY
AND RETURN TO:
Saint Paul Regional Water Services
1900 Rice Street
Saint Paul, Minnesota 55113
Phone: 651-266-6270

(space above this line for Recorder's use only)

Finance No. _____

PRIVATE WATER MAIN AGREEMENT

THIS AGREEMENT, made this 11th day of September, 2018 by and between **AUTH PROPERTIES, LLC** (the "Owner") and the **BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL**, a Minnesota Municipal Corporation (the "Board").

WITNESSETH:

WHEREAS, the Owner owns real estate addressed as 845 Minnehaha Ave E (the "Property"), which real estate is situated within the corporate limits of the City of Saint Paul in the County of Ramsey, State of Minnesota, described as LOT 1, BLOCK 1, BEACON BLUFF BUSINESS CENTER WEST, according to the recorded plat thereof, Ramsey County, Minnesota; and

WHEREAS, the Owner has made application to the Board for water supply service to be

afforded from the public water supply system to the Property according to the rates and charges payable therefore by the Owner, its successors or assigns, to the Board, as the same may be established from time to time; and

WHEREAS, the Board during all times herein mentioned did and does manage, control and operate, pursuant to the Home Rule Charter of the City of Saint Paul, its water works and public water supply system primarily for the purpose of furnishing an adequate supply of water for industrial, commercial and domestic purposes to residents of the City of Saint Paul within its corporate limits.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties, for themselves, their successors and assigns, do hereby mutually agree as follows:

1. Owner does hereby convey and grant to the Board a perpetual water main easement over, under, and across the portions of the Property as described and shown in Exhibit "A", attached hereto and incorporated herein (the "Easement Area").

2. The Board does hereby grant permission to Owner to construct, maintain and repair a private water main necessary for the furnishing of water service to the Property subject to the terms and conditions contained herein.

3. Owner shall construct the private water main within the Easement Area, at its sole cost and expense, in strict accordance with approved plans and specifications on file with the Board, under the supervision and subject to the approval of the Board. Owner shall pay a deposit to the Board to reimburse the Board for inspection costs plus an administrative fee of \$500.00. All service connections from the private water main shall be constructed by Owner at its sole cost and expense, in strict accordance with plans and specifications approved and on file with the Board under the supervision and approval of the Board.

4. All necessary maintenance, repairs, operation and/or replacement of the main and

service connections shall be borne by the Owner at its sole cost and expense, in strict accordance with plans and specifications approved and on file with the Board and subject to approval by the Board.

5. The Board, at the request of Owner, or in case of default of Owner in relation to the construction, reconstruction, maintenance, repair or operation of said private main, may enter upon the Easement Area and construct, reconstruct, maintain, repair or operate said private main for the aforesaid purposes of the same and all reasonable cost and expense thus incurred by the Board shall be chargeable by the Board to Owner and shall become due and payable upon presentation of an invoice therefore; and if such charges are not paid when due, they shall become and constitute a lien upon the Property. In the event of nonpayment, the Board reserves the right to deny service.

6. The Board agrees to supply water service to the Property as the same has been or shall be developed for commercial purposes, subject to and in accordance with applicable rates or charges, rules and regulations as they are or shall be established from time to time by the Board. It is understood and agreed, however, that the Board undertakes to supply such water supply only in case the pressure in its mains is sufficient to enable it so to do, and the Board assumes no responsibility for failure to supply water resulting from acts or conditions beyond its control.

7. It is agreed by and between the parties hereto that this Agreement shall be subject to water service rates, rules and regulations germane to the subject of this Agreement now in force and hereinafter prescribed and promulgated by the Board and further that there shall be and hereby is reserved to the Board the right to change, revise, alter and amend such rates, rules and regulations as their discretion shall direct to that end that such rates, rules and regulations shall be reasonable.

8. No extension of the private main shall be made without the prior written consent of the Board. All necessary service connection taps from the private main shall be installed by the Board upon due application therefore on a form supplied by the Board and shall be installed by the Board at the cost and expense of the party requesting the same. Official addresses for each service connection shall be obtained by Owner and furnished to the Board prior to the installation of service connection taps.

9. The Board reserves the right to shut off the water service when necessary for the extension, replacement, repair or cleaning of the private water main or apparatus appurtenant thereto, and the Board shall not be held liable for any damage occasioned thereby.

10. This agreement shall be binding upon Owner, its successors and assigns. Owner shall not assign its rights and obligations hereunder without first obtaining the written consent of the Board, which consent shall not be unreasonably withheld by the Board. In the event that the Owner desires to transfer its title to a portion of the Property hereof, it is expressly understood and agreed that the Owner and transferees shall enter into an agreement by which the transferees shall agree to pay all or a proportionate share of the cost of maintenance and replacement of the private water main and further agree to assume all or a proportionate share of the responsibility and liability arising out of the operation, maintenance, use and repair of the main or service pipes. This agreement shall be in form as to be subject to the approval of the Board, and the Board shall be provided with two (2) executed copies of the agreement.

11. Owner, in consideration of its being supplied water by the Board, upon the terms and conditions herein outlined, shall comply strictly with all of the rules and regulations of the Board, and shall pay or cause to be paid unto the Board therefore according to all applicable rates and charges prescribed and promulgated therefore by the Board now in existence or as may be modified or amended, which are hereby incorporated by reference. The Board reserves the right

to shut off the water supply for nonpayment of applicable water charges, and it is expressly agreed that such unpaid water charges and costs incurred by the Board pursuant to this Agreement shall be and constitute a lien upon the Property.

12. Owner, its successors and assigns, shall indemnify, defend and save harmless the Board, its officers, agents, employees and servants from all suits, actions or claims which shall arise from any injuries or damage caused by any break or leak in any service pipe, private main, other main or connection authorized by this Agreement, except those arising from the negligence of the Board that may occur from the furnishing of a supply of water by the Board to the Owner, its tenants, successors and assigns or other persons, firms or corporations served and to be served by this private water main; and further, that Owner, its successors and assigns, shall indemnify, defend and save harmless the Board against any claim, action or lawsuit brought against the Board, except those arising from the negligence of the Board, in connection with or as a result of the furnishing of such supply of water, by the Board, to Owner, or other persons, firms or corporations serve on the Property by such private water main or service connections.

13. Notices. Whenever it shall be required or permitted by this Agreement that notice or demand be given or served by either party to or on the other party, such notice or demand shall be delivered personally or mailed by United States mail to the addresses hereinafter set forth by certified mail. Such notice or demand shall be deemed timely given when delivered personally or when deposited in the mail in accordance with the above. The addresses of the parties hereto for such mail purposes are as follows, until written notice of such address change has been given:

As to the Board:	Board of Water Commissioners of the City of Saint Paul 1900 Rice Street Saint Paul, MN 55113
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As to the Owner:	Auth Properties, LLC 274 Fillmore Avenue East Saint Paul, MN 55107
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14. The undersigned represent that they have the power and authority to execute this Agreement on behalf of their respective parties.

[Remainder of page left intentionally blank.]

IN TESTIMONY WHEREOF, the parties hereto have entered into this Agreement as of the day first shown above.

For Owner:

Auth Properties, LLC

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, _____, Auth Properties, LLC.

Signature of person taking acknowledgment

For the Board:

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

Approved:

Stephen P. Schneider, General Manager
Saint Paul Regional Water Services

By: _____
Matt Anfang, President

Form Approved:

Lisa Veith, Senior Assistant City Attorney
City of Saint Paul

By: _____
Mollie Gagnelius, Secretary

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Matt Anfang, President, Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Signature of person taking acknowledgment

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Mollie Gagnelius, Secretary, Board of Water Commissioners of the City of Saint Paul, a Minnesota municipal corporation, on behalf of the corporation.

Signature of person taking acknowledgment

By: _____
Todd Hurley, Director
Office of Financial Services

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Todd Hurley, Director, Office of Financial Services, City of Saint Paul, Minnesota, a Minnesota municipal corporation, on behalf of the corporation.

Signature of person taking acknowledgment

This instrument was drafted by:
Saint Paul Regional Water Services
1900 Rice Street
Saint Paul, MN 55113