

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)

PRIVATE WATER MAIN AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2021 by and between Stephanie and Paul K. Zollinger (collectively "Owner 1"), Scott L. Strobel and Sarah K. Taylor (collectively "Owner 2"), the City of Maplewood, a Minnesota municipal corporation ("City"), and the Board of Water Commissioners, a Minnesota municipal corporation, d/b/a Saint Paul Regional Water Services ("Board").

WITNESSETH:

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, and incidentally to residents of the City of Maplewood, for the same or similar purposes; and

WHEREAS, Owner 1 is the fee owner of the property located at 2142 Arcade Street North (Parcel ID 09.29.22.33.0010) in Maplewood and which is legally described in Exhibit A attached hereto ("Lot 1"); and

WHEREAS, Owner 2 is the fee owner of the property located at 2144 Arcade Street North (Parcel ID 09.29.22.33.0009) in Maplewood and which is legally described in Exhibit A attached hereto ("Lot 2"); and

WHEREAS, the City is the fee owner of the property located at 0 Arcade Street North (Parcel ID 09.29.22.33.0008) in Maplewood and which is legally described in Exhibit A attached hereto ("Lot 3"); and

WHEREAS, Owner 1 and Owner 2 have made application to the Board for water supply service to be afforded from the public water supply system according to the rates and charges payable therefore by Owner 1, Owner 2, and their successors or assigns, to the Board as the same may be established from time to time; and

WHEREAS, a private water main will be constructed in accordance with approved plans and specifications on file with the Board within the boundaries of Lot 3, which is adjacent to Lot 1 and Lot 2;

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. The City does hereby convey and grant to the Board a perpetual water main easement in, under, through, and over and across the portions of Lot 3, which is legally described in Exhibit "B", attached hereto and incorporated herein ("Easement Area"). Said water main

easement shall be for the purpose of constructing, maintaining, repairing, operating, and replacing the proposed subsurface water main located in the Easement Area to provide service to Lot 1 and Lot 2, and shall not be used for any other purpose without the written consent of the City.

2. Board does hereby grant permission to Owner 1, and Owner 2 (each, a "Permitted User" and collectively, "Permitted Users") to maintain and repair the private water main necessary for the furnishing of water service to Lot 1 and Lot 2 subject to the terms and conditions contained herein. For the avoidance of doubt, the City is not a "Permitted User" for purposes of this Agreement.

3. All necessary maintenance, repairs, operation and/or replacement of the main and service connections shall be borne by the Permitted Users for that portion of the private water main situated in Lot 3 at their 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. It is expressly understood that each Permitted User, by entering into this agreement, agrees to pay one half (1/2) of the cost of maintenance and replacement of the private water main and further agree to assume one half (1/2) of the responsibility and liability arising out of the operation, maintenance, use and repair of the main; however, the Permitted Users will be jointly and severally liable to the Board with regard to all such costs, expenses and liabilities.

4. Board, at the request of the City, or in case of default by Owner 1 and/or Owner 2, 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 the Permitted Users 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 real property of the Permitted Users served. In the event one Permitted User pays its share and the other does not, said unpaid charges will constitute a lien only upon the property of the Permitted User which has not paid its share. In the event of nonpayment, Board reserves the right to deny service to Lot 1 or Lot 2, as the case may be.

5. Board agrees to supply water service to Lot 1 and Lot 2 for residential 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.

6. 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. 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 Lot 1 and/or Lot 2 as the case may be.

7. 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.

8. This Agreement shall be binding upon Owner 1, Owner 2, the City, and their respective successors in title. The parties intend that their rights and obligations under this Agreement shall run with the land, with respect to each of Lot 1, Lot 2, and Lot 3, and shall be binding on all successors to title thereto. Owner 1 and Owner 2 shall not otherwise assign their rights and obligations hereunder without first obtaining the written consent of the Board, which consent will not be unreasonably withheld by the Board.

9. With the exception of any improvements, landscaping, vegetation, or other objects which may exist within the Easement Area as of the date of this Agreement, and replacements thereof, the City shall neither construct nor install buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access to water facilities for the above stated purposes within Easement Area. The City shall cause no damage or disturbance to the existing grade within the Easement Area or material change in surfacing within Easement Area without written permission from the Board, which permission shall not be unreasonably withheld.

10. Owner 1, Owner 2, and their respective successors and assigns, shall indemnify, defend, and save harmless, the Board, its officers, agents, and employees from all suits, actions or claims including any such claims arising between Owner 1, Owner 2, and/or the City or any combination thereof, 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 Owner 1, Owner 2, their respective tenants, successors and assigns or other persons, firms or corporations served and to be served by this private water main; and

further, that the City, Owner 1, Owner 2 and their respective successors and assigns, shall indemnify, defend and save harmless the Board against any claim, action or lawsuit, including any such claims arising between Owner 1, Owner 2, and the City, or any combination thereof, 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 1 or Owner 2 by such private water main or service connections.

11. Whenever it shall be required or permitted by this Agreement that notice or demand be given or served by any party to or on any 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 change in such address has been given:

As to the Board:	Board of Water Commissioners of the City of Saint Paul Attn: SPRWS General Manager 1900 Rice Street St. Paul, MN 55113
As to Owner 1:	Paul and Stephanie Zollinger 2142 Arcade Street North Maplewood, MN 55109
As to Owner 2:	Scott Strobel and Sarah Taylor 2144 Arcade Street North Maplewood, MN 55109
As to the City:	City of Maplewood Attn: Public Works Director 1902 County Road B East Maplewood, MN 55109

12. 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 WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates listed below.

Approved as to form:

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

By: _____
Patrick Shea, General Manager
Saint Paul Regional Water Services

By: _____
Mara Humphrey, President

Date: _____

Date: _____

By: _____
Lisa Veith
Assistant City Attorney

By: _____
Mollie Gagnelius
Secretary

Date: _____

Date: _____

By: _____
John McCarthy
Director, Office of Financial Services

Date: _____

ACKNOWLEDGEMENTS

BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021,
by Mara Humphrey, President of the Board of Water Commissioners of the City of Saint Paul, a
Minnesota municipal corporation, on behalf of said corporation.

Witness my hand and official seal.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021,
by Mollie Gagnelius, Secretary of the Board of Water Commissioners of the City of Saint Paul, a
Minnesota municipal corporation, on behalf of said corporation.

Witness my hand and official seal.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021,
by John McCarthy, Finance Director of the City of Saint Paul, a Minnesota municipal corporation, on
behalf of said corporation.

Witness my hand and official seal.

Notary Public

CITY OF MAPLEWOOD

By _____
Marylee Abrams, Mayor

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021,
by Marylee Abrams, Mayor of the City of Maplewood, a Minnesota municipal corporation, on behalf of
said corporation.

Witness my hand and official seal.

Notary Public

By _____
Melinda Coleman, City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021,
by Melinda Coleman, City Manager of the City of Maplewood, a Minnesota municipal corporation, on
behalf of said corporation.

Witness my hand and official seal.

Notary Public

OWNER 1

By Stephanie Zollinger
Stephanie Zollinger

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 2 day of June, 2021,
by Stephanie Zollinger of 2142 Arcade Street North, Maplewood, MN, married to Paul K. Zollinger.

Witness my hand and official seal.

Susan Claire Peacock
Notary Public



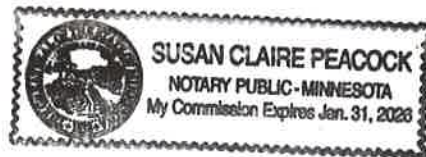
By Paul K. Zollinger
Paul K. Zollinger

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 2 day of June, 2021,
by Paul K. Zollinger of 2142 Arcade Street North, Maplewood, MN, married to Stephanie Zollinger.

Witness my hand and official seal.

Susan Claire Peacock
Notary Public



OWNER 2

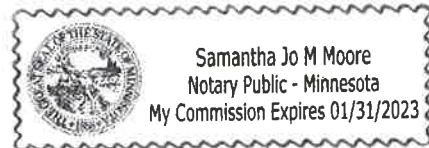
By Scott L. Strobel
Scott L. Strobel

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 2nd day of June, 2021,
by Scott L. Strobel of 2144 Arcade Street North, Maplewood, MN, married to Sarah K. Taylor.

Witness my hand and official seal.

[Signature]
Notary Public



By [Signature]
Sarah K. Taylor

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 2nd day of June, 2021,
by Sarah K. Taylor of 2144 Arcade Street North, Maplewood, MN, married to Scott L. Strobel.

Witness my hand and official seal.

[Signature]
Notary Public

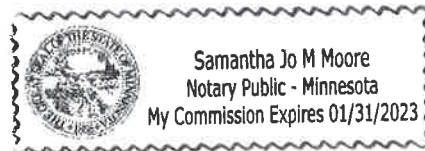


Exhibit A

The following properties are located in Ramsey County, Minnesota.

Lot 1

The North 107.95 feet of the South 423.53 feet lying East of the Westerly 422.00 feet of a tract of land described as follows: All that part of the West $\frac{1}{2}$ of the Southwest quarter of Section 9, Township 29, Range 22, described as follows: Commencing at a point on the South line of said Section 9, distant 780 feet East from the Southwest corner of said Section; thence North 21 degrees 58 minutes East 181.85 feet; thence North 2 degrees 19 minutes West 124.6 feet; thence North 23 degrees 32 minutes West 212.5 feet; thence North 25 degrees 9 minutes West 391 feet; thence North 25 degrees 24 minutes West 8.97 feet; thence West to a point on the West line of said Section 9, distant 850 feet North of the Southwest corner of said Section; thence South on said Section line 850 feet to said Southwest corner of said Section; thence East on the South line of said Section 780 feet to the place of beginning.

Lot 2

All that part of the Southwest Quarter of Section 9, Township 29, Range 22, Ramsey County, Minnesota, described as follows: Commencing at a point 423.53 feet North of the South line and 525.60 feet East of the West line of said Southwest Quarter, Section 9, Township 29, Range 22, thence East parallel to the South line of said Southwest Quarter 260 feet to Parkway line; thence North 23 degrees 32 minutes West 70.67 feet to a point; thence North 25 degrees 9 minutes West 86.73 feet to a point; thence west parallel to the South line of said Southwest Quarter of Section 9, Township 29, Range 22, 194.76 feet; thence South 143.34 thereof and situate in Ramsey County, Minnesota.

Lot 3

The Westerly 525.61 feet of the Northerly 41.44 feet of the Southerly 464.97 feet of that part of the Southwest Quarter lying Westerly of the Parkway in Section 9, Township 29, Range 22, according to the United States Government Survey thereof.

Exhibit B

Easement Area:

The Northerly 30.00 feet and the Easterly 30.00 feet of the following described property:

The Westerly 525.61 feet of the Northerly 41.44 feet of the Southerly 464.97 feet of that part of the Southwest Quarter lying Westerly of the Parkway in Section 9, Township 29, Range 22, according to the United States Government Survey thereof.