

GLOBAL SETTLEMENT AND RELEASE AGREEMENT

This Global Settlement and Release Agreement (“**Global Agreement**”) is entered into by and between Burger King Company LLC, a Florida limited liability company (“**Burger King**”), and the City of West St. Paul, a Minnesota municipal corporation (“**City**”).

Recitals

- A. Burger King is the fee owner of a parcel of real estate within the City at 1650 Robert Street South, West St. Paul, MN 55118 (Property I.D. No. 42-41000-01-020), and legal described as: Lot 2, Block 1, K-Mart No. 3445 Addition, Dakota County, Minnesota.
- B. In 2013, the City commenced an eminent domain action to take fee from and easements over portions of the parcel described in Recital A in connection with a project to reconstruct Robert Street South (“**Project**”), all as described in the action entitled *City of West St. Paul v. Larry A. Dimmen, et al.*, Dakota County Court File No. 19HA-CV-13-4929 (“**Condemnation Action**”). The post-taking remainder of the parcel described in Recital A is hereinafter referred to as the “**Property**.”
- C. At the time the Condemnation Action was commenced, Burger King Corporation (“**BKC**”) was the owner of the Property.
- D. In May 2017, BKC and the City entered into a contingent settlement agreement to resolve all claims BKC may have against the City in connection with the takings in the Condemnation Action, including but not limited to just compensation (“**Condemnation Settlement**”). The City previously paid the owner the total sum of \$32,500 to acquire title to the takings under Minn. Stat. § 117.042 (“**Quick-Take Payment**”). Among other things, the Condemnation Settlement required the City to make an additional payment to Burger King in the amount of \$192,500, plus \$10,000 for attorney fees, upon the expiration of all contingencies, all as more specifically described in the Condemnation Settlement.
- E. BKC conveyed to Burger King all BKC’s rights, title, and interest in the Property, including all claims arising from the Condemnation Action, pursuant to a Warranty Deed dated August 31, 2022, and recorded in the Office of the Dakota County Recorder on January 30, 2023, as Document Number 3574685, and a Transfer, Assignment and Assumption Agreement dated August 31, 2022.
- F. To date, the Condemnation Settlement contingencies have not been satisfied and the parties wish to enter into a new agreement to resolve all remaining claims arising from the Condemnation Action.
- G. After the condemnation, Burger King’s franchisee razed the improvements on the Property in anticipation of redevelopment. Burger King currently intends to lease the Property to its sister company, Popeyes Louisiana Kitchen, Inc., a Minnesota corporation (“**Popeyes**”), and Popeyes in turn currently intends to sublease the Property to a Popeyes franchisee (the

“**Franchisee**”). Popeyes intends for its Franchisee to develop a new restaurant on the Property that will require various approvals from the City.

- H. In 2024, the City commenced a civil code enforcement action concerning the condition of the Property in the action entitled *In the Matter of the Nuisance and Hazardous Property Located at 1650 Robert Street, West Saint Paul, Minnesota*, Court File No. 19HA-CV-24-6224 (“**Civil Action**”). The City claims there are nuisance conditions on the Property that must be abated.
- I. Burger King does not make any admissions regarding the City’s claims in the Civil Action and denies the allegations in the Civil Action; The City does not make any admissions regarding Burger King’s claims arising from the takings in the Condemnation Action.
- J. The parties now desire to compromise and settle all issues between them regarding the Property in both the Condemnation Action and the Civil Action.

Agreement

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the parties agree as follows:

- 1. **Recitals**. The Recitals are incorporated in this Global Agreement.
- 2. **Effective Date**. This Global Agreement is effective as of the date it is fully executed by all parties (“**Effective Date**”).
- 3. **Settlement Amount**. The City will pay Burger King the sum of \$192,500.00 in exchange for a release of all claims concerning the Property arising from the Condemnation Action or the Condemnation Settlement (“**Settlement Amount**”).
- 4. **Abatement**. Burger King will promptly abate all nuisance conditions on the Property that the City identified in the Civil Action by performing the work listed on **Exhibit A** attached hereto (“**Abatement**”). Burger King shall commence the Abatement within 30 days after receipt of the First Payment defined in Paragraph 6(a), below. The parties will request a stay of the Civil Action until the earlier of (a) completion of the Abatement or (b) six months from the Effective Date. The City will dismiss the Civil Action upon satisfactory completion of the Abatement. If the Abatement is not timely completed within six months after the Effective Date, the City will serve upon Burger King a notice of default and Burger King shall have 30 days to cure. If Burger King does not cure the alleged default, the voluntary abatement agreement attached hereto as **Exhibit B** (“**Voluntary Abatement Agreement**”) will become effective and enforceable on the 31st day after the date the City serves the notice of default.

5. Redevelopment. Burger King, Popeyes, the Franchisee or another entity (“Applicant”) currently intends to apply to the City for all necessary approvals to redevelop the site and construct a restaurant on the Property (“**Redevelopment Approvals**”), as follows:
 - a. Redevelopment Approvals include all necessary approvals required by the City Code or state law including, without limitation, a site plan approval, and a conditional use permit. The Redevelopment Approvals required by this Global Agreement do not include routine building permits or permit inspections.
 - b. The application(s) for Redevelopment Approvals may be submitted to the City within 90 days after the Effective Date.
 - c. The Applicant and the City will process the application(s) in good faith and in the ordinary course. The Applicant acknowledges that the City cannot pre-approve applications. Nothing herein shall be interpreted as a pre-approval or guarantee of any Redevelopment Approvals.
 - d. Completion of the Abatement shall be required before, or as a condition of, the Redevelopment Approvals.

6. Settlement Payment. The City will pay the Settlement Amount as follows:
 - a. The City will pay Burger King the sum of \$101,250.00 within 30 days after the Effective Date (“**First Payment**”).
 - b. The City will pay Burger King the balance of the Settlement Amount, \$101,250.00, on the earlier of (i) 30 days after granting the Redevelopment Approvals (“**Final Payment**”) or (ii) 30 days after Burger King notifies the City that it will waive the provisions of Section 9 below.
 - c. Burger King will provide the City with a W-9 and any other documentation reasonably required for the City to issue payments.

7. Condemnation Action Release. In consideration of the Quick-Take Payment and the Settlement Amount, Burger King waives and releases any and all claims it made or could have made against the City arising from or in connection with the Condemnation Action or the Condemnation Settlement, including without limitation, just compensation, statutory remedies, any other damages, interest, relocation benefits, appraisal fees, attorney fees, and costs and disbursements (“**Condemnation Action Release**”). Burger King acknowledges that it did not have to relocate as a result of the Project and that it did not obtain an appraisal of the takings.

8. Final Certificate. After making the Final Payment, the City will file a final certificate in the Condemnation Action and record the final certificate and a discharge of lis pendens with respect to the Property in the Office of the Dakota County Recorder.

9. Redevelopment Approvals Contingency: The Condemnation Action Release is contingent upon the granting of the Redevelopment Approvals. If the Redevelopment Approvals are not granted, for any reason, and Burger King has not waived this contingency, then the Condemnation Action Release shall be deemed void and all moneys the City has paid Burger King pursuant to this Global Agreement shall be applied and credited against Burger King's claims arising from the Condemnation Action. The parties will negotiate in good faith to resolve all claims arising from the Condemnation Action. No Final Certificate shall be filed or recorded until all claims have been resolved. The remainder of this Global Agreement shall remain in full force and effect.
10. Costs. Each of the parties shall bear its own legal costs in connection with the Condemnation Action, the Civil Action, and this Global Agreement, except for the legal fees being paid by the City to Burger King pursuant to the Condemnation Settlement. The City will pay all filing and recording fees in connection with this Global Agreement.
11. Non-Waiver. No waiver of any term, provision, or condition of this Global Agreement, whether by conduct or otherwise, in any one or more instances, will be deemed to be or be construed as a further or continuing waiver of any such term, provision, or condition or as a waiver of any other term, provision, or condition of this Global Agreement.
12. Cooperation. The parties will cooperate in good faith to execute any further instruments necessary to effect the terms of this Global Agreement.
13. Notices. All notices or other communications required or permitted under this Global Agreement must be given in writing, as follows: (i) by actual delivery of the notice into the hands of the party(ies) specified hereunder, in which case such notice will be deemed given on the date of delivery or the date delivery is rejected by the recipient; or (ii) by Federal Express, UPS, DHL, or any similar overnight carrier to the party(ies) specified hereunder, in which case such notice will be deemed to be delivered the next business day following the date of delivery or the date delivery is rejected by the recipient; or (iii) by registered or certified mail, return receipt requested, in a postage prepaid envelope, into the hands of the party(ies) specified hereunder, in which case such notice shall be deemed given upon receipt (or rejection thereof). All notices concerning this Lease must be addressed as follows, or in each case to such other address as either party may from time to time designate by giving written notice thereof to the other party:

Burger King: BURGER KING COMPANY LLC
5707 Blue Lagoon Drive
Miami, Florida 33126
Attention: Real Estate Law Department

with a copy to:
P.O. Box 020783
General Mail Facility
Miami, Florida 33102-0783

Attention: Real Estate Law Department

City:

City of West St. Paul
Nate Burkett
City Manager
1616 Humboldt Avenue
West St. Paul, MN 55118
Email: NBurkett@wspmn.gov

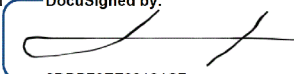
with a copy to:

Pamela J.F. Whitmore
Kennedy & Graven, Chartered
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
E-Mail: pwhitmore@kennedy-graven.com

14. Entire Agreement. The Global Agreement supersedes the Condemnation Settlement and contains the entire agreement of the parties with respect to the Condemnation Action and the Civil Action.
15. Execution. The parties agree that this Global Agreement may be executed in separate counterparts which, taken together, shall be and comprise one agreement.
16. Authority. Any person signing this Global Agreement in a representative capacity represents and warrants by signing this Global Agreement that it is the signer's intent to bind the principal being represented to the terms and conditions of this Global Agreement, that the signer has been authorized to bind the principal to the terms and conditions, and that it is the intent of the principal to be so bound.

[Remainder of page intentionally blank. Signature pages follow.]

BURGER KING SIGNATURE PAGE

BURGER KING COMPANY LLC
DocuSigned by:
By:  _____
2DDB70EF62164C7...
Name: Camilo Gonzalez _____
Title: Sr, Director, BK NA Development

CITY SIGNATURE PAGE

City of West St. Paul

Dated: _____

Mayor

Dated: _____

City Clerk

KENNEDY & GRAVEN, CHARTERED

Dated: _____

Peter G. Mikhail (#0249907)
Samuel B. Ketchum (#0399294)
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300
Email: pmikhail@kennedy-graven.com
sketchum@kennedy-graven.com

Attorneys for City of West St. Paul

EXHIBIT A

ABATEMENT WORK

List of Corrections

Remove all such hazardous and nuisance conditions and correcting all violations identified in the City's Abatement Order September 24, 2024, which will require the following: (1) removal of all concrete, asphalt, footings, rebar, stockpiles, spoil piles, noxious weeds, garbage, plant growth over eight inches, and other materials, (2) removal of all erosion control devices, (3) fill of the site to grade with new soil, (4) finishing of grade to mowable surface free of rocks and debris, (5) seed and mulch, (6) final stabilization of the entire site, and (7) restoration of all erosion control devices, including silt fence, bio logs, storm filter covers, until substantial vegetation has been verified by the City.

EXHIBIT B

VOLUNARY ABATEMENT AGREEMENT

This Voluntary Abatement Agreement (“Agreement”) is entered into as of this ___ day of _____, 2025, by and between the City of West Saint Paul, a Minnesota municipal corporation (the “City”), and Burger King Company LLC (“Owner”) (collectively, the “Parties”).

RECITALS

WHEREAS, the Owner is a fee owner of certain real property located at 1650 Robert Street, West Saint Paul, Minnesota 55118 and legally described on the Exhibit A attached to this Resolution (“Property”); and

WHEREAS, the City Council has determined that the Property contains numerous nuisance and hazardous conditions and is a hazardous property as that term is defined in Minnesota Statutes, Section 463.15, as further described in its “Resolution Ordering the Abatement of a Hazardous Property and Public Nuisances located at 1650 Robert Street” issued on September 3, 2024 (“Resolution and Abatement Order”), attached as an Exhibit B; and

WHEREAS, the recitals and provisions of the Resolution and Abatement Order are hereby incorporated into this Agreement; and

WHEREAS, as described in the Resolution and Abatement Order, the nuisance and hazardous conditions on the Property include general unclean, unsafe, and unsanitary conditions on the exterior of the property, including poorly graded and unmaintained soil, erosion of soil, and accumulation of stagnant water; sidewalks, driveways, and similar areas in a state of disrepair including cracking, open holes in asphalt and sidewalk, and exposed pilings; noxious weeds and plant growth in excess of eight inches; and

WHEREAS, as described in the Resolution and Abatement Order, the following violations of West Saint Paul City Code and the IPMC remain on the Property: (1) general unsanitary conditions (IPMC, section 302.1), (2) unmaintained grading and drainage (IPMC, section 302.2), (3) unrepaired or unmaintained sidewalk and driveway facilities (IPMC, section 302.3), and (4) unmaintained weeds and plant growth (IPMC, section 302.4); and

WHEREAS, pursuant to Minnesota Statutes, Chapter 463 and Section 150.064 of the West Saint Paul City Code, the City has authorized the City Attorney and City staff to initiate formal legal proceedings to require that the Owner abate the aforementioned conditions of the Property and, in the event that the Owner fails to do so, the City is further provided with the statutory authority to perform said abatement on its own and assess the Property for the cost thereof; and

WHEREAS, the Resolution and Abatement Order required the Owner to abate the nuisance and hazardous conditions as follows: (1) removal of all concrete, asphalt, footings, rebar, stockpiles, spoil piles, noxious weeds, garbage, plant growth over eight inches, and other materials, (2) removal of all erosion control devices, (3) fill of the site to grade with new soil, (4) finishing of grade to mowable surface free of rocks and debris, (5) seed and mulch, (6) final stabilization of the entire site, and (7) restoration of all erosion control devices, including silt fence, bio logs, storm filter covers, until substantial vegetation has been verified by the City (the “Abatement Work”); and

WHEREAS, on August 30, 2024, the City obtained an estimate of the costs to remedy some of the nuisance and hazardous conditions; and

WHEREAS, Bituminous Roadways, Inc., on that date, evaluated the property and estimated that it would cost approximately \$35,010.00 to perform the Abatement Work, which is attached as an Exhibit C; and

WHEREAS, by entering into this Agreement, the Parties wish to jointly facilitate the Abatement Work on the Property and avoid formal legal proceedings.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby agree as follows:

AGREEMENT

- 1. Recitals.** The Parties agree that the foregoing Recitals and the Recitals contained in the Resolution and Abatement Order are true and correct and are fully incorporated into this Agreement.
- 2. The Property.** The Parties agree and acknowledge that the Property is hazardous, as that term is defined by Minnesota Statutes Section 463.15. The Parties further agree and acknowledge that the conditions on the Property constitute a public nuisance. The Owner represents that they have a valid interest in the Property and that they have the full legal power and authority to enter into this Agreement.
- 3. Abatement Work.** The Owner desires the City or the City’s contractor or delegee to perform the abatement work and authorizes the City and its employees, agents, and contractors, to enter the Property for purposes of obtaining estimates for the work necessary to abate the public nuisances and hazardous conditions and to abate the same. The City has sole discretion in determining whether the above requirements have been met or the nuisance and hazardous

conditions on the Property have been abated. The Parties agree that, should the City or third-party contractors hired by the City undertake the work described above to abate the nuisance and hazardous conditions on the Property, one hundred percent (100%) of the actual cost of the work performed by the City or its contractors shall be assessed against the Property in accordance with section 5 below. Said assessment shall also include the City's costs related to drafting and recording this Agreement, which but for the Owner's failure to maintain the Property would not have been incurred by the City.

4. Civil Proceedings. By entering into this Agreement, the City agrees that it will not initiate formal legal proceedings in civil court against the Owner regarding the Property's unlawful conditions, except as otherwise expressly authorized in section 8 of this Agreement, unless the Owner breaches any of the terms of this Agreement.

5. Special Assessment of City Expenses; Waivers. The City shall be authorized, pursuant to Minnesota Statutes, Sections 429.101 and 429.021, the West Saint Paul City Code, and this Agreement, to assess the expenses that it has incurred or will incur to undertake any nuisance or hazardous condition abatement and the costs incurred in drafting and recording this Agreement. The City's costs shall include all expenses incurred in connection with its enforcement of City Code related to the Property. The Owner waives the right to object to the City's assessment of such costs. The Owner further waives the right to a hearing and appeal of the special assessment pursuant to Minnesota Statutes, Section 429.081 and specifically agrees with respect to such special assessment against the Property that:

- (a) Any requirements of Minnesota Statutes, Chapter 429 with which the City does not comply are hereby waived;
- (b) Assessment of the actual cost of the work against the Property as outlined above is reasonable, fair, and equitable and there are no other properties against which such costs should be assessed.

6. Right of Entry.

- (a) The Owner hereby grants to the City, and its agents, employees, contractors, and invitees, the right to enter upon the Property for the purpose of conducting all activities on the Property necessary to accomplish the abatement in accordance with this Agreement, for the further purpose of storing materials, equipment, and other items thereon which are needed in connection with the abatement, and for the purpose of inspecting the Property to determine compliance with this Agreement.
- (b) The right of entry outlined herein shall expire upon completion of the abatement and final inspection by the City of the Property to ensure that they are no longer in violation of state and local laws.
- (c) In consideration for such right of entry, the City agrees to use the Property only for the purposes described herein and will do no unnecessary damage to the land.

7. **Indemnification; Waiver of Claims.** The Owner agrees to indemnify, hold harmless, and defend the City, its officials, employees, contractors, and agents from and against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including reasonable attorneys' fees which they, or their agents or contractors may hereinafter sustain, incur, or be required to pay, arising out of or by reason of this Agreement. Nothing in this Agreement shall be construed as a waiver by the City of any immunities, defenses, or other limitations on liability to which the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes Chapter 466 or otherwise. The Owner waives any and all claims against the City for the removal or destruction of any and all materials or personal property that is reasonably necessary as part of the abatement, and the City may dispose of said items and need not make any attempt to salvage or sell said items.

8. **General Provisions.** This Agreement represents the entire agreement between the Parties and supersedes in all respects all prior agreements of the Parties, whether written or otherwise, with respect to the Property. No change, modification or waiver of any provisions of this Agreement will be binding unless it is in writing and signed by both Parties. This Agreement shall be construed according to the laws of the state of Minnesota. This Agreement may be executed and delivered in multiple counterparts. Each counterpart shall be an original, but such counterparts shall together constitute the same instrument and agreement.

9. **Run with the Land.** The provisions of this Agreement shall run with the land and be binding upon the Parties and their respective heirs, successors, and assigns.

10. **Recording.** The City may record this Agreement against the Property in the land records of Dakota County. It is the intent of the Parties that this Agreement is in a form which is recordable among the land records. The Parties agree to make any changes to this Agreement as may be necessary to effectuate the recording and filing of this Agreement against the Property.

11. **Severability.** If any term, provision, or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision, or condition to persons or circumstances other than those in respect to which it is invalid or unenforceable) shall not be affected, and each term, provision, or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. **Compliance with Laws and Regulations.** In performing all obligations contained herein, the Parties must abide by all applicable federal, state, and local statutes, ordinances, rules, and regulations. This Agreement is neither a substitute for, nor a waiver of, the City's permitting and inspection requirements.

13. **Termination of Agreement.** This Agreement shall terminate upon final payment of the special assessment levied against the Property regarding the work outlined herein. Upon termination of this Agreement and a written request by the Owner, the City shall thereafter execute and deliver such documents, in recordable form, that are necessary to extinguish the rights hereunder.

THE OWNER:

By: DocuSigned by:
2DDB70EF62164C7...
Burger King Company LLC

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 3 day of June, 2025,
by Burger King Company LLC.

Sharalea Andrade
Notary Public



THIS INSTRUMENT DRAFTED BY:

Kennedy & Graven, Chartered (SBK)
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

Legal Description of the Subject Property Located at 1650 Robert Street South

Lot 2, Block 1, K-Mart No. 3445 Addition, Dakota County, Minnesota.

Except that portion taken by the City of West St. Paul, a Minnesota municipal corporation for roadway and easement purposes as evidenced by Document No(s). 3006895. 3006894, 3083756 and 3085263.

Property ID No.: 42-41000-01-022

Abstract Property

EXHIBIT B

**CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 24-063

**RESOLUTION ORDERING THE ABATEMENT OF A HAZARDOUS PROPERTY AND
PUBLIC NUISANCES LOCATED AT 1650 ROBERT STREET**

WHEREAS, the real property located at 1650 Robert Street, West Saint Paul, Minnesota 55118 and legally described on the Exhibit A attached to this Resolution (“Property”); and

WHEREAS, the Property contains remnants of a commercial fast food restaurant building that has not been operational since 2018 and was subsequently demolished and removed in June 2021; and

WHEREAS, the Property is located in the B-3 – General Business District of the City of West Saint Paul (the “City”); and

WHEREAS, the Property is currently owned by Burger King Company LLC (“Owner”);
and

WHEREAS, on March 22, 2021, the City Council approved a site plan and conditional use permit authorizing the Owner to re-develop the Property; and

WHEREAS, on June 6, 2021, the City’s Building Official approved a demolition permit for the Owner to remove the former building; and

WHEREAS, on June 8, 2021, the City’s Engineering Department issued a sewer permit to disconnect sanitary sewer and water facilities at the Property; and

WHEREAS, on June 11, 2021, the City’s Building Official approved a building permit for the Owner to reconstruct a new building on the Property; and

WHEREAS, on June 15, 2021, the City’s Engineering Department approved a permit for the Owner to install new polyvinyl chloride (PVC) sanitary sewer piping and storm sewer facilities; and

WHEREAS, on March 22, 2022, the site plan and conditional use permit issued to the Owner on March 22, 2021 expired because the Owner failed to re-develop the Property; and

WHEREAS, the Owner otherwise communicated with the City that they intended to re-develop the Property and remove hazardous conditions that resulted from inadequate maintenance; and

WHEREAS, since 2022, City staff has observed conditions included general unclean, unsafe, and unsanitary conditions on the exterior of the property, including poorly graded and unmaintained soil, erosion of soil, and accumulation of stagnant water; sidewalks, driveways, and

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similar areas in a state of disrepair including cracking, open holes in asphalt and sidewalk, and exposed pilings; noxious weeds and plant growth in excess of eight inches; and

WHEREAS, poorly graded and unmaintained soil and erosion of soil creates drainage issues, storm water runoff to neighboring properties, and other public health and safety issues; and

WHEREAS, accumulation of stagnant water creates public health and safety issues from mosquitos breeding and because it acts as a catch basin for garbage and debris; and

WHEREAS, the disrepair of the sidewalk, driveway and similar areas pose public health and safety risks because they are trip hazards and exposed material can injure pedestrians and damage vehicles; and

WHEREAS, all of the aforementioned conditions also create an appearance of dilapidation and blight on Robert Street, which is a main thoroughfare in the City; and

WHEREAS, City staff has inspected the Property on at least 17 occasions since 2018, including 10/8/2021, 10/13/2021, 6/14/2022, 6/21/2022, 6/22/2022, 8/03/2022, 6/16/2023, 6/23/2023, 7/5/2023, 8/31/2023, 10/18/2023, 5/09/2024, 6/10/2024, 6/12/2024, 6/18/2024, 7/1/2024, and 7/16/2024; and

WHEREAS, pursuant to West Saint Paul City Code, section 95.01, the City provided notice and then abated tall grass and noxious weed conditions on the Property on 6/22/2022, 8/8/2022, 6/23/2023, 8/31/2023, and 7/1/2024; and

WHEREAS, per section 150.020 of the West Saint Paul City Code, the City has adopted and incorporated the International Property Maintenance Code (“IPMC”); and

WHEREAS, per IPMC, section 302.1, exterior property and premises shall be maintained in a clean, safe and sanitary condition and the occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition; and

WHEREAS, per IPMC, section 302.2, premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon; and

WHEREAS, per IPMC, section 302.3, sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions; and

WHEREAS, per IPMC, section 302.4, premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches; and

WHEREAS, on February 23, 2024, Cody Joos, the City’s Engineering Tech III, sent the Owner a compliance letter documenting the existence of the violations of IPMC, Sections 302.1, 302.2, as well as IPMC, Sections 302.3 and 302.4 related to general unsanitary conditions and

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unmaintained weeds and plant growth, and requesting an action plan within 30 days of the letter to correct the violations; and

WHEREAS, on May 9, 2024, June 12, 2024, and July 18, 2024, the City issued administrative citations to the Owner for violations of IPMC, Sections 302.2 and 302.3 related to unmaintained grading and drainage and unrepaired or unmaintained sidewalk and driveway facilities; and

WHEREAS, City staff have therefore notified the Owner for the following violations of West Saint Paul City Code and the IPMC: (1) general unsanitary conditions (IPMC, section 302.1), (2) unmaintained grading and drainage (IPMC, section 302.2), (3) unrepaired or unmaintained sidewalk and driveway facilities (IPMC, section 302.3), and (4) unmaintained weeds and plant growth (IPMC, section 302.4); and

WHEREAS, in August 2024, the City staff proposed that the Owner voluntarily abate the violations on the Property; and

WHEREAS, Minnesota Statutes, section 463.15, subdivision 3 defines a “hazardous building or hazardous property” as “any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health;” and

WHEREAS, Section 150.060 of the West Saint Paul City Code similarly defines “hazardous building or hazardous property” as “any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a public safety or health hazard;” and

WHEREAS, Minnesota Statutes, sections 463.16 and 463.17, in addition to the West Saint Paul City Code, section 150.063, authorize the City Council to order the owner of any hazardous building or property within the City to remove the hazardous conditions of the building or property or to raze or remove the building; and

WHEREAS, Minnesota Statutes, section 463.17, subdivision 2 states the order shall be served upon the owner of record, or the owner's agent if an agent is in charge of the building or property, and upon the occupying tenant, if there is one, and upon all lienholders of record, in the manner provided for service of a summons in a civil action.; and

WHEREAS, Minnesota Statutes, section 463.17, subdivision 2 authorizes the City, if the owner of a hazardous property cannot be found, to effectuate service upon the owner by posting such order at the main entrance to the building and by four weeks' publication in the official newspaper of the City if it has one, otherwise in a legal newspaper in the county; and

WHEREAS, Minnesota Statutes, section 463.161, in addition to West Saint Paul City Code, section 150.065, authorizes a city to correct or remove a hazardous condition of any hazardous property or building if the owner of record fails to do so after a reasonable time and the district court enters a judgment sustaining the city's order; and

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WHEREAS, Minnesota Statutes, section 609.74, in addition to the West Saint Paul City Code, section 94.15, deem it a public nuisance to maintain a hazardous building or property in violation of state law or City Code; and

WHEREAS, West Saint Paul City Code also deems it a public nuisance to maintain or permit any condition which is a danger to the health, safety, and general welfare of the citizens of the City; and

WHEREAS, West Saint Paul City Code further authorizes the City Council to abate public nuisances; and

WHEREAS, the hazardous, unsafe, and nuisance conditions persist at the Property; and

WHEREAS, based on information presented, the City Council of the City of West Saint Paul finds that the condition of the Property, as summarized in this Resolution, is hazardous, unsafe, a danger to the health, safety, and general welfare of the citizens of the City, a violation of the IPMC, and a public nuisance, and therefore, said conditions must be abated in accordance with applicable state and local laws.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of West Saint Paul as follows:

1. The City Council adopts, as factual findings, all of the above recitals.
2. Based on the aforementioned findings and the professional opinion of the City's Chief Building Officer, the Property is hereby deemed hazardous, as that term is defined by Minnesota Statutes, section 463.15 and section 150.060 of the City Code because the conditions described above present serious dangers to pedestrians, vehicles, and public health and safety.
3. The Property is hereby deemed unsafe, as that term is defined by Minnesota Rules, section 1300.0180 based upon the professional opinion of the City's Chief Building Official, because there is a strong likelihood that it can lead to harms to human life.
4. The condition of the Property also constitutes a public nuisance within the meaning of Minnesota Statutes, section 609.74, Minnesota Rules, section 1300.0180, and Chapter 94 of the West Saint Paul City Code, because the conditions described above threaten the public peace, health, safety or sanitary condition of the City, are offensive, and have a blighting influence on the community.
5. The City Attorney shall prepare an Abatement order substantially similar to that attached hereto as Exhibit B (the "Abatement Order").
6. City staff and consultants are further authorized to take all necessary steps to secure compliance with the requirements contained in the attached Abatement Order and may further effectuate the repair and abatement of the hazardous and nuisance conditions on

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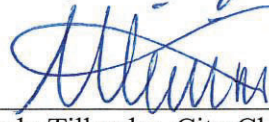
the Property by court order or contract, and shall subsequently facilitate assessment of the costs thereof against the Property in accordance with state and local laws.

7. The City Attorney and City staff are authorized to take all necessary legal steps to effectuate service of this Resolution and the Abatement Order in the manner required by state or local law, including by posting the Abatement Order at the main entrance of the any building on the Property and by four weeks' publication in the official newspaper of the City or in a legal newspaper in the county.

Adopted this 23rd day of September, 2024.



Dave Napier, Mayor



Nicole Tillander, City Clerk

ATTEST:



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EXHIBIT A

Legal Description of the Subject Property Located at 1650 Robert Street South

Lot 2, Block 1, K-Mart No. 3445 Addition, Dakota County, Minnesota.

Except that portion taken by the City of West St. Paul, a Minnesota municipal corporation for roadway and easement purposes as evidenced by Document No(s). 3006895, 3006894, 3083756 and 3085263.

Property ID No.: 42-41000-01-022
Abstract Property

Resolution No. 24-063
Page 7 of 11

EXHIBIT B

ABATEMENT ORDER

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

Case Type: Other Civil

In the Matter of the Hazardous and Nuisance
Property Located at 1650 Robert
Street, West Saint Paul, Minnesota

**ORDER FOR ABATEMENT OF
HAZARDOUS AND NUISANCE
PROPERTY**

TO: All owners, occupants, and lienholders of record.

The City Council of the City of West Saint Paul (the "City") orders that within 30 days of service of this Abatement Order you abate the hazardous and nuisance conditions which currently exist on the property located at: 1650 Robert Street, West Saint Paul, Minnesota, which property is legally described on Exhibit A attached to this Abatement Order ("Property").

The City, pursuant to Minnesota Statutes, chapters 463 and 609, Minnesota Rules, the Minnesota State Building Code, the International Property Maintenance Code ("IPMC"), and the West Saint Paul City Code, has determined that the following violations and hazardous conditions exist on the Property: (1) general unsanitary conditions (IPMC, section 302.1), (2) unmaintained grading and drainage (IPMC, section 302.2), (3) unrepaired or unmaintained sidewalk and driveway facilities (IPMC, section 302.3), and (4) unmaintained weeds and plant growth (IPMC, section 302.4).

Accordingly, it is hereby ORDERED that you abate the aforementioned conditions within 30 days of the date of service of this Abatement Order by removing all such conditions and correcting all violations, which will require the following: (1) removal of all concrete, asphalt,

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footings, rebar, stockpiles, spoil piles, noxious weeds, garbage, plant growth over eight inches, and other materials, (2) removal of all erosion control devices, (3) fill of the site to grade with new soil, (4) finishing of grade to mowable surface free of rocks and debris, (5) seed and mulch, (6) final stabilization of the entire site, and (7) restoration of all erosion control devices, including silt fence, bio logs, storm filter covers, until substantial vegetation has been verified by the City.

Certain work listed above may require building permits and you must first apply for and obtain any such permits required for the work you intend to perform from the appropriate City offices and any other entity with jurisdiction. This Abatement Order is not a permit. Further, all such work completed is subject to inspection by the City's Building Official, Fire Inspector, or other City staff as may be required to ensure compliance with applicable laws, regulations, and this Abatement Order.

You are further advised that unless such corrective action is taken or an Answer is timely served on the City within 30 days of the date of service of this Abatement Order upon you, a motion for summary enforcement of this Abatement Order will be made to the Dakota County District Court.

Finally, you are further advised that if you do not comply with this Abatement Order and the City is compelled to take corrective action, as authorized under law, all necessary costs incurred by the City in enforcing this Abatement Order will be assessed against the Property pursuant to Minnesota Statutes, section 463.21 and the West Saint Paul City Code. In connection to such assessment, the City further intends to recover all of its expenses incurred in carrying out this Abatement Order, including specifically but not exclusively, filing fees, service fees, publication fees, attorneys' fees, appraisers' fees, witness fees, including expert witness fees and traveling

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expenses incurred by the City from the time this Abatement Order was originally made pursuant to Minnesota Statutes, section 463.22 and the West Saint Paul City Code.

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Dated September 24, 2024

KENNEDY & GRAVEN, CHARTERED

By: /s/Samuel B. Ketchum
Samuel B. Ketchum (#0393517)
700 Fifth Street Towers
150 South Fifth Street
Minneapolis, MN 55402
(612) 337-9300
Attorney for City of West Saint Paul

ACKNOWLEDGMENT

The undersigned acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.

/s/Samuel B. Ketchum
Samuel B. Ketchum

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EXHIBIT A

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Property ID No.: 42-41000-01-022
Abstract Property

Exhibit C



Your Preferred Pavement Partner Since 1946

1520 Commerce Drive | Mendota Heights | MN | 55120
 651-686-7001 (P) | 651-687-9857 (F)
www.bitroads.com | info@bitroads.com

To: CITY OF WEST SAINT PAUL	Contact:
Address: 1616 HUMBOLDT AVENUE WEST ST PAUL, MN 55118 USA	Phone: 651-552-4100
Project Name: BURGER KING LOT REMEDIATION	Fax:
Project Location: 1650 S ROBERT STREET, WEST ST PAUL	Bid Number:
	Bid Date: 8/30/2024

Item Description

MOBILIZATION
 HARD SURFACE REMOVALS
 RESTORATION

Total Bid Price: \$35,010.00

Notes:

- All work to be completed in 2024.
- Proposed Work Does Not Include: Landscape Restoration, Irrigation Repair/Restoration, Private Utility Locates/Repairs, Sub-soil Corrections, Erosion Control, Towing Charges, Permits and Fees, Multiple Mobilizations, Surveying or any Unforeseen Conditions, Guarantee on drainage or ponding of water on lots with less than 1% slope. No epoxy or thermoplastic striping.
If wear course is to be placed after October 31, Bituminous Roadways cold weather paving advisory will need to be signed.
- Noted Addn: None
- For more information: www.bitroads.com

Payment Terms:

This proposal is subject to credit approval and is valid for 10 calendar days, after which time price quotes may be withdrawn without notice. This quote is based on standard AGC subcontract language and shall become a rider to any contract.

Payment due upon receipt of invoice. A finance charge of 1 1/2% per month (18% per year) will be charged on any balance over 30 days past invoice date, unless otherwise agreed upon in writing. We gladly accept Visa, Mastercard, Discover & American Express.

<https://bitroads.com/About-Us/75th-Anniversary>

<p>ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p>Buyer: _____</p> <p>Signature: _____</p> <p>Date of Acceptance: _____</p>	<p>CONFIRMED: BITUMINOUS ROADWAYS, INC. - MENDOTA HEIGHTS</p> <p>Authorized Signature: _____</p> <p>Estimator: Paul Hildestad 952-250-2898 Paul.Hildestad@bitroads.com</p>
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