

PERMANENT INGRESS AND EGRESS EASEMENT

THIS PERMANENT INGRESS AND EGRESS EASEMENT (“Agreement”) is made, granted and conveyed this ____ day of _____, 2020 (“Effective Date”) by and between the Wentworth Place Homeowner’s Association, a Minnesota nonprofit corporation (“Association”) and the West St. Paul Economic Development Authority, a Minnesota public body corporate and politic (“EDA”).

PROPERTY DESCRIPTIONS

The EDA owns real property in Dakota County, Minnesota, legally described on Exhibit A (“EDA’s Property”), attached hereto and incorporated herein by reference.

The Association owns real property in Dakota County, Minnesota, legally described on Exhibit B (“Association’s Property”), attached hereto and incorporated herein by reference.

PERMANENT EASEMENT DESCRIPTION

The Association for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the EDA, its successors and assigns, forever the following:

A permanent easement for ingress and egress purposes and all such purposes ancillary, incident or related thereto (“Permanent Easement”) under, over, across, through and upon the real property legally described and depicted on Exhibit C (the “Permanent Easement Area”), attached hereto and incorporated herein by reference.

EXEMPT FROM STATE DEED TAX

The rights of the EDA also include the right of the EDA, its contractors, agents and servants:

- (a) To enter upon the Permanent Easement Area at all reasonable times for the purposes of ingress and egress to the Association’s Property and to maintain, inspect, repair and replace said ingress and egress access to the Association’s Property; and

- (b) To remove from the Permanent Easement Area trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the use and operation of the Permanent Easement Area and to deposit earthen material in and upon the Permanent Easement Area; and
- (c) To remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.

The Permanent Easement shall be maintained as follows:

- (a) The Permanent Easement shall be regularly maintained in a manner similar to other roadways in the vicinity; said maintenance to be sufficient to allow safe travel by, and prevent harm to, pedestrians and vehicles using the Permanent Easement. During the period that the EDA permits the use of the EDA Property by its contractors, agents, servants, Dakota County, or others, for the construction of the River to River Trail project or for any other construction project, the EDA, at its sole expense, shall ensure that there is no nuisance accumulation of dirt or other debris on the Permanent Easement and will periodically sweep or remove any such dirt or debris within a reasonable time of a written request to do so from the Association.
- (b) The cost of routine maintenance of the paving and curbing on the Permanent Easement shall be divided equally between the Association and the EDA and its successors and assigns.
- (c) Any party who causes harm to be done to the pavement and curbing on the Permanent Easement requiring repair other than routine maintenance, shall be responsible to pay for the repair of the same.

Additional Conditions:

The EDA agrees that as part of any purchase agreement it may enter into for the sale of the EDA's Property for residential development, the buyer shall be obligated to make a written request to the Association board seeking to have the EDA Property added to the Association, (as more fully described in Article 11 of the First Supplemental Declaration, dated December 30, 2008, recorded January 7, 2009, as Document No. 2629699 in the Office of the Dakota County Recorder) through an amendment of the Declaration and the Plat. The Association shall have thirty (30) days in which to either accept or reject the offer from the buyer. If the Association accepts the offer for the EDA Property to be added to the Association, the cost of amending the Declaration and the Plat shall be equally borne by the buyer of the EDA's Property and the Association.

The Permanent Easement shall automatically terminate and be of no further force and effect if the EDA sells the EDA Property for commercial-only development.

The EDA shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a

release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent Easement Area prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the EDA of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by the Association or its successors or assigns, shall be subject to any governmental immunity defenses of the EDA and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Association, for itself and its successors and assigns, does hereby warrant to and covenant with the EDA, its successors and assigns, that it is well seized in fee of the Association's Property described on Exhibit B, the Permanent Easement Area described and depicted on Exhibit C and has good right to grant and convey the Permanent Easement herein to the EDA.

Any party who hires counsel to enforce the provisions of this Agreement shall be entitled to recover its reasonable attorney's fees and costs from the breaching party, regardless of whether a lawsuit is initiated.

This Agreement is binding upon the heirs, successors, executors, administrators and assigns of the parties hereto.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

[Remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the day and year aforesaid by their duly authorized representatives.

EDA:
WEST ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY

By: _____
David J. Napier
Its President

By: _____
James Hartshorn
Its Executive Director

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2020, before me a Notary Public within and for said County, personally appeared David J. Napier and James Hartshorn to me personally known, who being each by me duly sworn, each did say that they are respectively the President and the Executive Director of the West St. Paul Economic Development Authority, a Minnesota public body corporate and politic, named in the foregoing instrument, and that it was signed on behalf of said entity by authority of its Board and said President and Executive Director acknowledged said instrument to be the free act and deed of said entity.

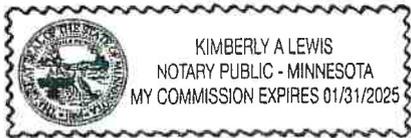
Notary Public

**ASSOCIATION:
WENTWORTH PLACE HOMEOWNERS' ASSOCIATION**

By: D. Harris
Name: D.J. Harris
Its: President

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this 20th day of August, 2020, before me a Notary Public within and for said County, personally appeared D.J. Harris to me personally known, who being by me duly sworn, did say that s/he is the President of Wentworth Place Homeowners' Association, a Minnesota nonprofit corporation, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said entity by authority of its Board of Directors and said D.J. Harris acknowledged said instrument to be the free act and deed of the entity.



Kimberly A. Lewis
Notary Public

**This instrument was drafted by
and after recording, please return to:**
Korine L. Land (#262432)
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
651-451-1831

EXHIBIT A
LEGAL DESCRIPTION OF EDA'S PROPERTY

Lot 1, Block 1, WENTWORTH PLACE, according to the recorded plat thereof, Dakota County, Minnesota, except the following described parcel of property:

Beginning at the most easterly southeast corner of said Lot 1; thence North 89 degrees 53 minutes 03 seconds West on an assumed bearing along the southerly line of said Lot 1, a distance of 64.75 feet; thence continuing along said southerly line South 00 degrees 19 minutes 57 seconds East 66.94 feet; thence continuing along said southerly line North 89 degrees 52 minutes 07 seconds West 106.13 feet; thence continuing along said southerly line North 00 degrees 22 minutes 07 seconds West 66.91 feet; thence South 89 degrees 53 minutes 03 seconds East 24.50 feet; thence North 00 degrees 19 minutes 57 seconds West 184.71 feet; thence South 89 degrees 54 minutes 06 seconds East 32.13 feet; thence South 00 degrees 19 minutes 57 seconds East 35.20 feet; thence North 89 degrees 40 minutes 03 seconds East 114.29 feet to the most easterly line of said Lot 1, thence South 00 degrees 19 minutes 57 seconds East along said easterly line 150.42 feet to the point of beginning.

And

Except that part of Lot 1, Block I, WENTWORTH PLACE, according to the recorded plat thereof, Dakota County, Minnesota described as follows:

Commencing at the most easterly southeast corner of said Lot 1; thence North 89 degrees 53 minutes 03 seconds West on an assumed bearing along the southerly line of said Lot 1, a distance of 64.75 feet; thence continuing along said southerly line South 00 degrees 19 minutes 57 seconds East 66.94 feet; thence continuing along said southerly line North 89 degrees 52 minutes 00 seconds West 106.13 feet; thence continuing along said southerly line North 00 degrees 22 minutes 07 seconds West 66.91 feet; to the point of beginning; thence continuing along said southerly line North 89 degrees 53 minutes 03 seconds West 110.66 feet; thence North 00 degrees 19 minutes 57 seconds west 184.67 feet; thence South 89 degrees 54 minutes 06 seconds East 135.16 feet; thence South 00 degrees 19 minutes 57 seconds East 184.71 feet; thence North 89 degrees 53 minutes 03 seconds West 24.50 feet to the point of beginning, Dakota County Minnesota.

PID: 42-83680-01-011

Abstract Property

EXHIBIT B
LEGAL DESCRIPTION OF ASSOCIATION'S PROPERTY

That part of Lot 1, Block 1, WENTWORTH PLACE, according to the recorded plat thereof, Dakota County, Minnesota, described as follows:

Beginning at the most easterly southeast corner of said Lot 1; thence North 89 degrees 53 minutes 03 seconds West on an assumed bearing along the southerly line of said Lot 1, a distance of 64.75 feet; thence continuing along said southerly line South 00 degrees 19 minutes 57 seconds East 66.94 feet; thence continuing along said southerly line North 89 degrees 52 minutes 00 seconds West 106.13 feet; thence continuing along said southerly line North 00 degrees 22 minutes 07 seconds West 66.91 feet; thence South 89 degrees 53 minutes 03 seconds East 24.50 feet; thence North 00 degrees 19 minutes 57 seconds West 184.71 feet; thence South 89 degrees 54 minutes 06 seconds East 32.13 feet; thence South 00 degrees 19 minutes 57 seconds East 35.20 feet; thence North 89 degrees 40 minutes 03 seconds East 114.29 feet to the most easterly line of said Lot 1, thence South 00 degrees 19 minutes 57 seconds East along said easterly line 150.42 feet to the point of beginning.

Together with:

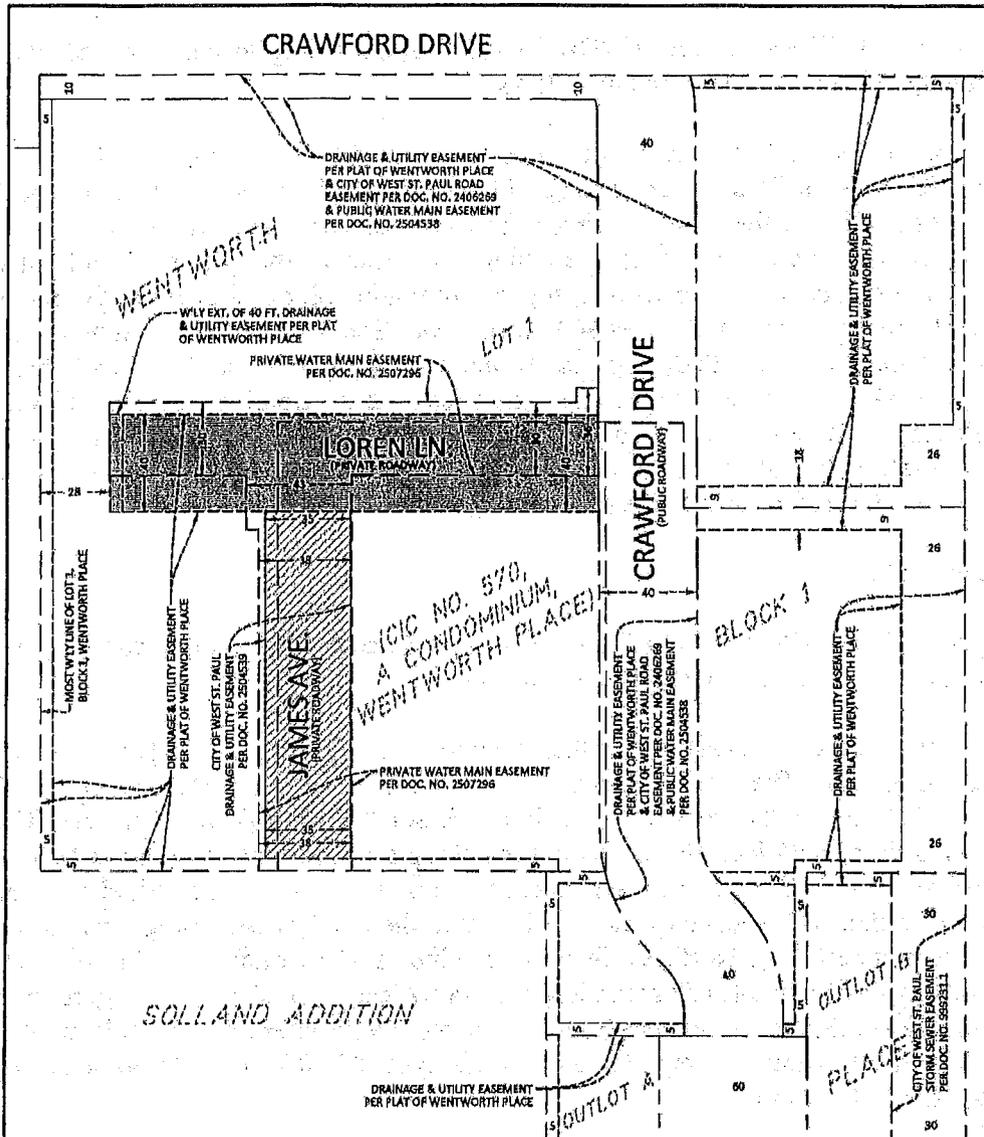
That part of Lot 1, Block I, WENTWORTH PLACE, according to the recorded plat thereof, Dakota County, Minnesota described as follows:

Commencing at the most easterly southeast corner of said Lot 1; thence North 89 degrees 53 minutes 03 seconds West on an assumed bearing along the southerly line of said Lot 1, a distance of 64.75 feet; thence continuing along said southerly line South 00 degrees 19 minutes 57 seconds East 66.94 feet; thence continuing along said southerly line North 89 degrees 52 minutes 00 seconds West 106.13 feet; thence continuing along said southerly line North 00 degrees 22 minutes 07 seconds West 66.91 feet; to the point of beginning; thence continuing along said southerly line North 89 degrees 53 minutes 03 seconds West 110.66 feet; thence North 00 degrees 19 minutes 57 seconds West 184.67 feet; thence South 89 degrees 54 minutes 06 seconds East 135.16 feet; thence South 00 degrees 19 minutes 57 seconds East 184.71 feet; thence North 89 degrees 53 minutes 03 seconds West 24.50 feet to the point of beginning, Dakota County Minnesota.

Abstract Property

EXHIBIT C

LEGAL DESCRIPTION AND DEPICTION OF PERMANENT EASEMENT AREA



PROPOSED EASEMENT DESCRIPTIONS

EASEMENT NO. 1

A perpetual easement for access purposes over, under and across that part of the 40.00 feet wide drainage and utility easement lying in an easterly and westerly direction within Lot 1, Block 1, WENTWORTH PLACE, according to the recorded plat thereof, as delineated and dedicated in said plat, and its westerly extension, lying westerly of the westerly right-of-way line of Crawford Drive as described in Document No. 2406269, on file and of record in the Office of the County Recorder, and lying easterly of the most westerly 28.00 feet, as measured at a right angle, of said Lot 1, said plat also being part of CIC NUMBER 570, A CONDOMINIUM, WENTWORTH PLACE on file and of record in said Office of the County Recorder, All in Dakota County, Minnesota,

AND

EASEMENT NO. 2

A perpetual easement for access purposes over, under and across all of the 35.00 feet wide drainage and utility easement as described in Document No. 2504539, on file and of record in the Office of the County Recorder, lying within Lot 1, Block 1, WENTWORTH PLACE, according to the recorded plat thereof. Said plat also being part of CIC NUMBER 570, A CONDOMINIUM, WENTWORTH PLACE on file and of record in said Office of the County Recorder, All in Dakota County, Minnesota.



EASEMENT NO. 1
PROPOSED ACCESS EASEMENT
(8,032 SQ. FT.)



EASEMENT NO. 2
PROPOSED ACCESS EASEMENT
(4,995 SQ. FT.)

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Erik R. Winahet
Erik R. Winahet
License Number: 46866
05/19/2020
Date



NOTE: 2019 DAKOTA CO. AERIAL PHOTO OBTAINED FROM MINNESOTA GEOSPATIAL IMAGE SERVICE.

<p>EASEMENT EXHIBIT WEST ST. PAUL, MN 55118</p> <p>BOLTON & MENK</p>	<p>12234 NICOLLET AVENUE BURNSVILLE, MINNESOTA 55337 (952) 890-0509</p>
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PART OF:
LOT 1, BLOCK 1, WENTWORTH PLACE
& CIC NO. 570
DAKOTA COUNTY, MN
FOR: CITY OF WEST ST. PAUL

11/19/2020

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JOB NUMBER: T12. FIELD BOOK: DRAWN BY: ERW FILE NO. 5365

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