

**CITY OF SOUTH ST. PAUL
LEAD SERVICE LINE REPLACEMENT AGREEMENT**

THIS LEAD SERVICE LINE REPLACEMENT AGREEMENT (the “Agreement”) is by and between the City of South St. Paul (the “City”) and _____ [insert names of all owners] (the “Owner”).

RECITALS

WHEREAS, the Owner owns _____ [insert address], South St. Paul, Minnesota, 55075 (the “Property”); and

WHEREAS, the City intends to hire a contractor to replace the lead service line from the City water main in the public right-of-way to the water meter on the Property, including within the structure at no cost to the Owner (the “Work”); and

WHEREAS, in exchange for the Work, the Owner agrees to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto do covenant and agree as follows:

ARTICLE I
THE AGREEMENT

Section 1.1. Purpose. The purpose of this Agreement is to memorialize the covenants and agreements between the Owner and the City with regard to the Work on the Property.

Section 1.2. Cooperation. The City and the Owner shall cooperate and use their respective best efforts to ensure the most expeditious implementation of the various provisions of this Agreement.

Section 1.3. Term. The term of this Agreement shall commence on the date of the last signature to this Agreement and shall terminate after completion of the Work and expiration of the City’s construction contractor’s one (1) year warranty period. The date of the completion of the Work shall be determined by the City.

Section 1.4. Recitals. The above recitals are true and correct as of the date hereof and constitute a part of this Agreement.

ARTICLE II
WORK

Section 2.1 Method and Timing. The City will determine the method to perform the Work based on the service line to the Property. The City will determine the timing of the Work. Once

the schedule for the Work has been determined, the City will contact the Owner.

ARTICLE III
COVENANTS AND AGREEMENTS

Section 3.1. Covenants and Agreements of the Owner. The Owner covenants and agrees with the City that:

- (a) License: The Owner hereby authorizes and grants the City, the contractor, and City building officials and inspectors a temporary license to enter the Property for the purposes of the Work. The Owner acknowledges and agrees that the City will pay no compensation for the temporary license and the Owner acknowledges the consideration of the City by installing the Work.
- (b) Access: An adult person (18 years or older) must be present while the Work is being performed and will provide the City and/or its contractor clear and unobstructed access to any area required to complete the Work. This includes the removal of drywall, paneling, fixtures, flooring, and other materials as may be necessary to access interior plumbing.
- (c) Fee Owner: The Owner hereby covenants and warrants with the City that Owner is seized in fee of the Property and has the right to enter into this Agreement with the City.
- (d) Maintenance: The Owner acknowledges and agrees that after completion of the Work on the Property and expiration of the one (1) year warranty period provided by the City's private construction contractor, the service line will be private improvements. The Owner also acknowledges and agrees that the Owner and future owners of the Property shall be responsible for the maintenance, repair and future replacement of the service line. The Owner acknowledges and agrees that the City does not warrant the materials and/or the installation of the service line, and the Owner acknowledges and agrees that the Owner must remedy any defects in the service line following the expiration of said one (1) year warranty period provided by the City's private construction contractor.
- (e) Notice to Tenants. Properly inform all tenants of the Property about the Work, specifically providing prior notice to all tenants of the dates and times such Work is to be performed, and coordinate property access based on construction schedule.

Section 3.2. Covenants and Agreements of the City. The City covenants and agrees with the Owner that:

- (a) Replacement: The City will install a new water service line between the water main pipe within the public right-of-way or easement and the water meter on the Property.
- (b) Restoration. The City agrees to restore the turf, paved surfaces, landscaping, plants,

and trees that were disturbed on the Property in order for the City to perform the Work. Restoration will not include finished interior work, interior plumbing (including fixtures) beyond reconnection to the water meter, or exterior landscaping beyond topsoil, seeding, and mulch.

- (c) **Insurance.** The City agrees to require the City's contractor to maintain a commercial general liability policy with limits per occurrence of not less than \$1,000,000 during the term of this Agreement.

ARTICLE IV **DEFAULT AND REMEDIES UPON DEFAULT**

Section 4.1. Default. If a party to this Agreement materially defaults in the due and timely performance of any of its covenants, or agreements hereunder, the other party(s) may give notice of default of this Agreement. The notice shall specify with particularity the default or defaults on which the notice is based. The notice shall specify a thirty (30) day cure period within which the specified default or defaults must be cured. If the specified defaults are not cured within the cure period, the other party(s) may pursue all remedies and sanctions available at law and in equity, including specific performance.

Section 4.2. No Remedy Exclusive. No remedy herein conferred upon or reserved to a party to this Agreement shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

ARTICLE V **RELEASE**

Section 5.1. Release. The Owner agrees that the City shall not be liable to the Owner, or any subsequent owner of the Property, for any costs expense or damage arising directly or indirectly from the Work or from any defective material or faulty installation or faulty design of said Work, and the Owner waives all claims and hereby releases the City, its officials, and employees of and from all claims for injury to person(s) or damage to real or personal property arising from the Work. The Owner agrees that this provision shall survive the expiration of the term of this Agreement.

ARTICLE VI **GENERAL PROVISIONS**

Section 6.1. Notices. All notices, requests, demands or other communications required or permitted by this Agreement shall be in writing and delivery shall be deemed to be sufficient if delivered personally or by registered or certified mail, return receipt accepted, postage prepaid, addressed as follows:

If to City: City of South St. Paul
Attn: City Engineer
125 Third Avenue North
South St. Paul, MN 55075

If to Owner: _____

E-mail: _____

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

Section 6.2. Binding Effect. This Agreement and the terms, conditions and covenants contained herein and the transaction contemplated hereunder shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, personal representatives, and permitted assigns. This Agreement shall further be binding on subsequent purchasers of the Property and shall run with the Property.

Section 6.3. Severability and Applicable Law. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 6.4. Entire Agreement, Amendments, Counterparts. This Agreement shall constitute the entire agreement between the parties and shall supersede all prior oral or written negotiations. This Agreement may be amended or any of its terms modified or changed only by a written amendment authorized and executed by the City and the Owner. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.5. Governmental Immunity. Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Owner, its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided in Minnesota Statutes, Chapter 466.

[the remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be executed by its duly authorized representatives.

**CITY:
CITY OF SOUTH ST. PAUL**

By: _____
Kelsey Gelhar, City Engineer

Date: _____

EXAMPLE

OWNER:

Name: _____

Date: _____

Name: _____

Date: _____

All Owners must sign this Agreement.

EXAMPLE