

(Do not write in the space above. Reserved for recording/transfer data)

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### **PERMANENT PUBLIC EASEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by and between MDI Limited Partnership #78, a limited partnership, organized under the laws of the State of Minnesota, c/o 1600 University Avenue, Suite 212, St. Paul, Minnesota 55104, referred to hereinafter as "Grantor," and the City of Winona, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 207 Lafayette Street, Winona, Minnesota 55987, referred to hereinafter as "Grantee"; (collectively referred to herein as the "parties").

### **AGREEMENT**

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, paid this date by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Non-Exclusive Easement, 10 feet in width, for public right-of-way, drainage, pedestrian and bicycle trail, utility, roadway, etc. purposes (the "Permanent Easement"), over, under and across that part of the tract of land legally described on Exhibit A, which is attached hereto and incorporated herein by reference, in the City of Winona, Winona County, Minnesota; which Permanent Easement is legally described on Exhibit B, which is attached hereto and incorporated by reference (the "Permanent Easement Area").
2. The Permanent Easement Area described above is depicted on Exhibit "C" which is attached hereto and incorporated herein by reference.
3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement.

4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary the right of way facilities and improvements, and such other improvements appurtenant thereto, in the Permanent Easement area described herein.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantor acknowledges and agrees that this Permanent Easement is contingent upon and subject to all required transaction approvals, including approval by the City Council of the Grantee.
9. The Grantee shall maintain the Permanent Easement area as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder. Grantor has no obligation to maintain or plow snow for the Permanent Easement Area.
10. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
11. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole use and control of the public right-of-way facilities and improvements constructed in the Permanent Easement area in accordance with the grant of rights conveyed herein.
12. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein.

IN WITNESS WHEREOF, the parties have hereunto executed this document the day and year first above written.

**GRANTOR:**

MDI LIMITED PARTNERSHIP #78

\_\_\_\_\_  
By: Gary L. Stenson  
Its: Chief Manager

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May, 2021, by Gary L. Stenson, Chief Manager of MDI Limited Partnership #78, Grantor.

\_\_\_\_\_  
Notary Public

**GRANTEE:**

CITY OF WINONA MINNESOTA

By: \_\_\_\_\_  
Scott D. Sherman, Its Mayor

**ATTEST:**

By: \_\_\_\_\_  
\_\_\_\_\_, Its City Clerk

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF WINONA    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Scott D. Sherman, as Mayor and \_\_\_\_\_ as City Clerk on behalf of the City of Winona, a municipal corporation under the laws of the State of Minnesota, Grantee.

\_\_\_\_\_  
Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

Mark A. Merchlewitz  
Benson & Merchlewitz  
74 W. 3<sup>rd</sup> Street  
Winona, MN 55987  
507-454-3752

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Lot Two (2), Block One (1), Main Square Annex, Winona, Winona County, Minnesota.

**EXHIBIT B**

**LEGAL DESCRIPTION OF PERMANENT EASEMENT**

**LEGAL DESCRIPTION:**

The Northerly 10 feet of the easterly 120.22 feet of Lot 2, Block 1, Main Square Annex, Winona, Winona County, Minnesota.

**EXHIBIT C**

**DEPICTION OF PERMANENT AND TEMPORARY EASEMENTS**

[Attach certificate of survey or engineering schematic of easements]

EXHIBIT C

MDI

Easement (10'x120.22')



0 30 60 120 Feet

This map was compiled from a variety of sources. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed. Aerial Imagery from 2020

May 2021

Easement Area

Property Boundary