

EASEMENT AGREEMENT

THIS AGREEMENT is made as of the 28th day of December, 1992 by and between MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY, a body politic and corporate ("Agency") and CLIFFORD L. MACKENZIE [~~unmarried~~] [and Laura M. MacKenzie, husband and wife,] and DOUGLAS L. TRAINER [~~unmarried~~] [and Alice M. Trainer, husband and wife,] collectively, "Grantee").

RECITALS:

A. Agency is the owner of Lot 6, Auditor's Subdivision No. 126, Hennepin County, Minnesota ("Agency Property").

B. Grantee is the owner of Lot 5, Auditor's Subdivision No. 126, Hennepin County, Minnesota ("Grantee Property").

C. The parties desire to create certain easements burdening the Agency Property for the benefit of the Grantee Property.

AGREEMENT:

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agency and Grantee, on behalf of themselves and their successors and assigns, hereby agree as follows:

ARTICLE I

Definitions

As used in this Agreement, the following terms have the following definitions:

Grantee Building: The building on the Grantee Property.

Laws and Regulations: All federal, state and local statutes, regulations, codes, ordinances and rules and all orders, directives, decisions or requirements of any court or other governmental authority, now in effect or hereafter enacted or announced, which are applicable to any of the matters discussed or described in this Agreement.

Owners: With respect to any of the Agency Property and the Grantee Property, all present and future owners of legal or equitable fee title to all or any portion of such property and their respective successors and assigns, each of whom is an "Owner."

Owner's Group: With respect to any Owner: (i) the Owner; (ii) the Owner's affiliates, tenants, subtenants, licensees, and concessionaires; and (iii) the partners, officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, and invitees of the Owner and its affiliates, tenants, subtenants, licensees, and concessionaires.

Walkway Easement Area: The portion of the Agency Property as described on Exhibit A hereto.

ARTICLE II

Easements

Section 2.01 Easements Burdening the Agency Property for the Benefit of the Grantee Property. Agency hereby grants the following easements to Grantee and its successors and assigns for the benefit of the Grantee Property:

(A) Access to Exterior Wall: A nonexclusive easement on and over the Walkway Easement Area for purposes of access to and maintenance and repair of the exterior wall of the Grantee Building.

(B) Pedestrian Access: A nonexclusive easement over and across the Walkway Easement Area for purposes of pedestrian ingress, egress and access to and from the Grantee Property.

ARTICLE III

Operating Covenants

Section 3.01 Construction, Maintenance, and Repair.

(A) Initial Construction of Sidewalk on Walkway Easement Area. The Owner of the Agency Property shall construct a sidewalk on the Walkway Easement Area at its expense. In connection with the construction of such sidewalk, the Owner of the Agency Property shall have the right to install a water repellent material between the sidewalk and the Grantee Building by cutting a groove into the outer wall of the Grantee Building which is sufficient for the installation of the material in a good and workmanlike fashion.

(B) Maintenance and Repair of Walkway Easement Area. After the initial construction of the sidewalk on the Walkway Easement Area, the Owner of the Grantee Property shall be responsible for performing all necessary maintenance, repairs, and replacements of the Walkway Easement Area and the sidewalk located thereon at its expense, including but not limited to reasonable efforts to remove snow and ice on a timely basis. All maintenance, repairs, and replacements by the Owner of the Grantee Property shall be done in a good and workmanlike manner, free of mechanic's liens and the claims thereof, and in accordance with all Laws and Regulations.

The Owner of the Grantee Property shall secure written approval from the Owner of the Agency Property at least thirty (30) days prior to performing any maintenance, repairs, or replacements of a non-routine nature. The Owner of the Agency Property shall not unreasonably withhold or delay such approval. If the Owner of the Grantee Property defaults in any of its obligations pursuant to this Section 3.01(B) and fails to commence such action as is necessary to cure such default within thirty (30) days after written notice of default is given (or immediately after written notice of default in the event of an emergency), then the Owner of the Agency Property may enforce such obligations by an action at law or suit in equity, or may perform or pay all or part of such obligations and charge the cost of performing or the payment made to the Owner of the Grantee Property. In connection with any suit to enforce such obligations or to collect the cost of performance or payment, the Owner of the Agency Property shall be entitled to reasonable attorneys' fees.

Section 3.02 Insurance and Indemnity.

(A) The Owner of the Grantee Property shall hold harmless and indemnify the Owner of the Agency Property and its Owner's Group, from and against all loss, costs, damage, actions, suits, judgments and expense, including reasonable attorneys' fees, arising out of or due to, the use of the easements granted herein by the Owner of the Grantee Property and its Owner's Group, except where and to the extent due to or a result of, the negligence or willful misconduct of the Owner of the Agency Property or its Owner's Group.

(B) The Owner of the Grantee Property shall at its own expense:

(1) Maintain comprehensive general liability insurance which names the Owner of the Agency Property as an additional insured against claims for bodily injury, death and property damage occurring in or upon the Walkway Easement Area, including contractual liability coverage for claims made pursuant to the indemnity provisions of this Agreement, in such amounts as may be required by law or are carried from time to time by prudent owners of commercial buildings in the City of Minneapolis, but in all events to afford protection for limits of not less than \$500,000.00 combined single limit for bodily injury or property damage; and

(2) Provide the Owner of the Agency Property upon request with certificates evidencing such insurance.

(C) Each policy described in Paragraph (B) shall not be cancelable, amended or permitted to lapse except after 30 days prior written notice to the Owner of the Agency Property.

ARTICLE IV

Miscellaneous

Section 4.01 Compliance with Laws and Regulations. The Owner of the Grantee Property shall use the easements granted herein in compliance with all Laws and Regulations and will not do or permit to be done anything which would or might result in the Owner of the Agency Property becoming liable for any damages, fines or penalties under any of such Laws and Regulations.

Section 4.02 Severability. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Agreement, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Agreement, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

Section 4.03 Interpretation. Whenever appropriate, the singular number may be read as the plural, and the plural may be read as the singular. Any gender used may be read as the feminine, neuter or masculine gender, whichever is appropriate. Compound words beginning with the prefix "here" shall be read as referring to this entire Agreement and not merely to the part of it in which they appear.

Section 4.04 Notices. All notices, communications, demands and requests permitted or required to be given under this Agreement shall be in writing and shall be deemed to be given when personally delivered, when delivered to a reliable and recognized overnight courier or messenger service which provide receipts of delivery or when deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed as follows or to such other address as is set forth in a notice given in accordance with this Section 4.04:

If to Agency: Minneapolis Community Development Agency
Crown Roller Mill
105 Fifth Avenue South
Minneapolis, Minnesota 55401
Attention: Richard Victor

If to Grantee: Clifford L. MacKenzie and Douglas L. Trainer

918 Hennepin Ave
Minneapolis MN
55405
Attention: _____

Section 4.05 Minnesota Law. This Agreement shall be construed in accordance with the laws of the State of Minnesota.

Section 4.06 No Dedication. Nothing contained herein shall be deemed to be a gift or dedication of all or any portion of the easements herein granted, or any thereof, to or for the general public.

Section 4.07 Agreement to Run With the Land; Duration. This Agreement shall run with the land, and, except as is expressly provided herein, shall be binding upon and inure to the benefit of the parties and their successors and assigns as Owners of the Agency Property and the Grantee Property. This Agreement and the easements granted herein shall automatically terminate without further notice or action on January 31, 2020.

IN WITNESS WHEREOF, the parties have executed this Agreement and the Agency has caused its corporate seal to be affixed hereto as of the date first above written.

AGENCY:

MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

By Jon Niemiec
A Commissioner

By Walt Dziedzic
A Commissioner

GRANTEE:

Clifford L. MacKenzie
Clifford L. MacKenzie

Laura M. MacKenzie
Laura M. MacKenzie

Alice M. Trainer
Alice M. Trainer

Douglas L. Trainer
Douglas L. Trainer

Douglas L. Trainer

Approved as to Form:

Mattley Z. Bitts
Assistant City Attorney

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 28th
day of December, 1992, by Joan Niemiec
and Walt Dzedzic, Commissioners of the
Minneapolis Community Development Agency.

Karen Nevils
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)



The foregoing instrument was acknowledged before me this 29th
day of October, 1992, by Clifford L. MacKenzie [~~unmarried~~,]
[and Laura M. Mackenzie, husband and wife].

Diane M. Schiks
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)



The foregoing instrument was acknowledged before me this 29th
day of October, 1992, by Douglas L. Trainer [~~unmarried~~,] [and
Alice M. Trainer, husband and wife].

Diane M. Schiks
Notary Public



This instrument was drafted by:
Minneapolis City Attorney's Office
Crown Roller Mill
105 Fifth Avenue South, Suite 405
Minneapolis, Minnesota 55401

EXHIBIT A

TO EASEMENT AGREEMENT

(Description of Walkway Easement Area)

The northeasterly 5.00 feet of that part of Lot 6, Auditor's Subdivision No. 126, files of the Registrar of Titles, Hennepin County, Minnesota, which lies northeasterly of the southeasterly extension of the northeasterly line of Lot 4, said Auditor's Subdivision No. 126.