

## **MODIFICATION OF EASEMENT**

This agreement is by and between Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy (hereinafter referred to as "NSP") and Park and Recreation Board, a body corporate and politic under the laws of the State of Minnesota (hereinafter referred to as "Grantor").

**WHEREAS**, Grantor is the owner of land in the County of Hennepin and State of Minnesota legally described as the "Property" on the attached Exhibit A (the "**Property**").

**WHEREAS**, NSP is the record owner of an easement affecting and encumbering the Property, as described in that certain Easement granted to Northern States Power Company, a Minnesota corporation, by Grantor on April 12, 2000, and filed with the Hennepin County Recorder on April 19, 2000, as Document No. 7288177 (the "**Easement**").

**WHEREAS**, both parties desire to amend the Easement.

**NOW, THEREFORE**, NSP and Grantor agree that the Easement shall be modified to amend the description of the easement area within the Property to that land legally described as the "**Easement Area**" on the attached Exhibit A.

**NOW THEREFORE**, NSP and Grantor further agree that the Easement shall be modified to include the following new paragraph: For and in consideration for the modification of the Easement, NSP agrees to defend, indemnify and hold harmless the Grantor, its agents, officials, employees and representatives from any and all claims, losses, expenses, costs, including attorney's fees damages, demands, actions, causes of action or suits at law or in equity of whatsoever kind or nature, rights of action of whatever kind or nature which may subsequently be presented, known or unknown, by other individuals, business entities, and /or corporations and entities public or private, arising out of or resulting from NSP's use of the Property including its construction, operation, maintenance, use, rebuild and removal of the any of its facilities referred to in the Easement or other facilities subsequently placed on the Property.

Except as stated herein, all other terms and provisions of the Easement remain in full force and effect.

It is mutually understood and agreed that this instrument covers all the agreements and stipulations between the parties and that no representation or statements, verbal or written, have been made modifying, adding to or changing the terms hereof.



**EXHIBIT "A"**

"Property":

Plat of Land in Sections 17 & 18, Township 28 North, Range 23 West, acquired by THE CITY OF MINNEAPOLIS, MINNESOTA, as and enlargement of MINNEHAHA PARK dated March, 1903.

Also

Plat of Land by THE CITY OF MINNEAPOLIS, MINNESOTA, for the public Parks and Parkways filed March 30, 1893.

"Easement Area":

Said easement shall be limited to: A 69.00 foot wide strip of land being 34.5 feet on each side of the following described centerline and sideline extensions thereof:

Commencing at point MCM 115 per the Minnesota Department of Transportation Right of Way Plat No. 27-99; thence North 89 degrees 43 minutes 39 seconds East (assumed bearing) along the east/west Quarter line of Section 18, Township 28, Range 23, a distance of 2079.99 feet; thence North 40 degrees 18 minutes 06 seconds West a distance of 475.91 feet; thence North 41 degrees 46 minutes 22 seconds West a distance of 632.44 feet to a point hereinafter referred to as "Point A" and the point of beginning of the centerline to be described; thence North 34 degrees 51 minutes 41 seconds West a distance of 830.00 feet and said centerline there terminating.

TOGETHER WITH:

Said easement shall be limited to: A 75.00 foot wide strip of land being 37.5 feet on each side of the following described centerline and sideline extensions thereof:

Commencing at the herein before described "Point A"; thence South 41 degrees 46 minutes 22 seconds East a distance of 632.44 feet; thence South 40 degrees 18 minutes 06 seconds East a distance of 733.85 feet; thence South 39 degrees 50 minutes 51 seconds East a distance of 948.40 feet; thence South 49 degrees 59 minutes 11 seconds East a distance of 697.63 feet; thence South 60 degrees 43 minutes 16 seconds East a distance of 820.00 feet; thence South 59 degrees 57 minutes 25 seconds East a distance of 596.46 feet; thence South 42 degrees 49 minutes 12 seconds East to the south line of the above described property and there said centerline terminating.

Original Easement Area: 8.20 acres, more or less

New Easement Area: 8.10 acres, more or less