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**PERPETUAL CONSERVATION EASEMENT
FOR WETLAND BANK**

Grantor: _____ **BWSR Easement #** _____

Grantee: State of Minnesota, acting by the Board of Water and Soil Resources, hereinafter referred to as "State".

Location: within Section _____, Township _____, Range _____, County of _____

This Perpetual Conservation Easement for Wetland Bank ("Easement") is made on _____ (date) by the undersigned, hereinafter referred to collectively as the "Grantor":

RECITALS

A. This Easement is made pursuant to and in furtherance of the Wetland Conservation Act of 1991, as amended, Minn. Stat. §103G.222, *et. seq.* ("WCA") and the rules implementing WCA, Minn. R. ch. 8420 ("WCA Rules").

B. This Easement pertains to all or part of the real property in _____ County, Minnesota, which is legally described on *Exhibit A* attached hereto and made a part hereof ("Real Property").

C. The Real Property is the subject of a wetland bank plan pursuant to Minn. R.8420.0740.

D. The Grantors include all of the following (1) all the fee owners of the Real Property and (2) the applicants under the bank plan if different from the fee owners. The term "Grantor" includes all of the Grantors if there is more than one. The Grantors are jointly and severally responsible for complying with the terms of this instrument. This Easement and the duties and restrictions contained in it shall also run with the land.

E. WCA is administered by the State.

F. The local government unit ("LGU") charged under WCA with approval of the subject wetland bank plan ("bank plan") is ----- . The subject bank plan includes all fully executed forms provided by the State, all supporting maps, engineering plans, drawings, monitoring plan, vegetation establishment plan and management plan and facilities maintenance plan. A complete copy of the bank plan is on file at the LGU. The address of the LGU is:

. The State is responsible for the acceptance of this Easement.

G. The bank plan requires the restoration or creation of a wetland on the portion of the Real Property designated in Exhibit B attached hereto and made a part hereof ("Bank Easement Area"). The bank plan may also require the establishment of upland buffer within the Bank Easement Area. This Easement pertains to both wetlands and uplands within the Bank Easement Area.

H. The Bank Easement Area is subject to WCA, WCA Rules and all other provisions of law that apply to wetlands, except that the exemptions in Minn. Stat. §103G.2241 and Minn. R. 8420.0122 do not apply to the Bank Easement Area, pursuant to Minn. Stat. §103G.222, subd. 1(h) and Minn. R. 8420.0115.

I. All references in this Easement to Minnesota Statutes and to Minnesota Rules are to the statutes and rules currently in effect and as amended or renumbered in the future.

J. The purposes of this Easement are to maintain and improve the ecological values of the Bank Easement Area through the means identified in the bank plan and to preserve the Bank Easement Area in a natural condition in perpetuity.

IN ADDITION, THE GRANTORS, FOR THEMSELVES, THEIR HEIRS, SUCCESSORS AND ASSIGNS COVENANT THAT THEY:

1. Shall establish and maintain wetlands and upland buffers within the Bank Easement Area as specified in the bank plan approved by the LGU and on file at the offices of the LGU. The wetland and any upland buffer area shall be the size and type specified in the bank plan. Grantor shall not make any use of the Bank Easement Area that would adversely affect any of the functions or values of the area. Those functions and values are identified in Minn. R. 8420.0540, subp. 10, or specified in the approved bank plan.

2. Shall pay the costs of establishment, maintenance, repairs and reconstruction of the wetlands and upland buffers within the Bank Easement Area, which the LGU or the State may deem necessary to comply with the specifications for the Bank Easement Area in the approved bank plan. The Grantor's obligations under this paragraph include the payment of any lawful taxes or assessments on the Real Property.

3. Shall establish and maintain visible monuments such as signs, numbered fence posts or survey posts at prominent locations along the boundary of the Bank Easement Area in accordance with the approved bank plan. If numbered fence posts are used, Grantor's Bank Plan must contain a survey

or scaled drawing of the property that corresponds to the fence post numbering. Posts must be at least 4 feet high and notably visible on the landscape. If signs are used, such signs must have a surface area of at least one quarter (1/4) square feet, mounted on a fence post at least 4 feet above ground, and minimally contain the words "Boundary of Wetland Bank Easement Area - Subject to Perpetual Conservation Easement Restrictions – Contact MN Board of Water and Soil Resources or Local Soil and Water Conservation District for Further Information." Said monuments must be made of non-degradable material and shall be at least four feet in height.

4. Grants to the LGU, the State, and the agents and employees of the LGU and the State, reasonable access to the Bank Easement Area for inspection, monitoring and enforcement purposes. The LGU, the State, and the agents and employees of the State are hereby granted a perpetual ingress and egress easement ("Access Easement") for access to and from the Bank Easement Area. The Access Easement shall be over and across the area ("Easement Access Area") that is specified on Exhibit A and or Exhibit B attached hereto and made a part hereof or, if not specified on Exhibit A and or Exhibit B, the most reasonably direct and convenient route between the Bank Easement Area and a public road. If all or any part of the Easement Access Area is owned by a person or entity other than Grantor, then the owner has joined in this Easement for purposes of granting the Access Easement by signing below. The signed written consent and subordination of all other holders of interests in the Easement Access Area has been or will be obtained by Grantor and recorded in the same manner as specified in paragraph 5 below. This Easement grants no access to or entry to the Real Property, the Bank Easement Area, or the Easement Access Area to the general public.

5. Represents that Grantor is (a) the fee owner of the Real Property and (b) the applicant under the replacement plan or bank plan, if different from the fee owner. Grantor represents that all other parties who may have an interest in the Real Property (e.g., mortgagees, contract for deed vendees, holders of easements, etc.) have consented and subordinated their interests to this Easement by signing below. If it is determined at any time that there is any other party who may have an interest in the Real Property that is prior to this Easement, then Grantor shall immediately obtain and record a consent and subordination agreement signed by such other party. Acceptance of this Easement does not release Grantor from the obligation to obtain and record a consent and subordination agreement signed by any party who may have an interest in the Real Property that is prior to this Easement, even if such interest was of record at the time of acceptance.

6. Will record this easement at Grantor's expense in the real property records of the county where the Real Property is located. Said recording shall take place within 30 days of the State's acceptance of this Easement. The Grantor shall provide the original copy of the recorded easement to the State prior to making any credits from this bank available for sale or use.

7. Acknowledge that this Easement shall be unlimited in duration, without being re-recorded. This Easement shall be deemed to be a perpetual conservation easement pursuant to Minn. Stat. ch. 84C.

8. Acknowledge that, unless expressly authorized in writing by the LGU in the approved bank plan, Grantor:

- (a) Shall not produce agricultural crops on the Bank Easement Area, except that this provision does not restrict the harvest of the seeds of native vegetation if only the seed-

head is removed in the process of harvest and does not involve the use vehicular, motorized equipment;

- (b) Shall not cut hay, mow vegetation or cut timber on the Bank Easement Area except as allowed or prescribed in the Bank Plan;
- (c) Shall not make any vegetative alterations on the Bank Easement Area that do not enhance or would degrade the ecological functions and values of the Bank Easement Area. Vegetative alterations shall be limited to those listed in the approved bank plan;
- (d) Shall not graze livestock on the Bank Easement Area;
- (e) Shall not place any materials, substances or other objects, nor erect or construct any type of structure, temporary or permanent, on the Bank Easement Area.
- (f) Shall not allow vehicular traffic on the Bank Easement Area except for the purpose of implementing construction or maintenance activities specifically authorized in the bank plan.
- (g) Shall not alter the topography of the Bank Easement Area by any means including plowing, dredging, filling, mining or drilling.
- (h) Shall not modify the hydrology of the Bank Easement Area in any way or by any means including pumping, draining, ditching, diking, impounding or diverting surface or ground water into or out of the Bank Easement Area.

9. Acknowledge that the Grantor is responsible, at Grantor's cost, for weed control by complying with noxious weed control laws and emergency control of pests necessary to protect the public health on the Bank Easement Area.

10. Acknowledge that this Easement may be modified only by the joint written approval of the LGU and the State. If the Bank Easement Area has been used to mitigate wetland losses under the Federal Water Pollution Control Act, the U.S. Army Corps of Engineers (or successor agency) must also agree to the modification in writing.

11. Acknowledge that this Easement may be enforced, at law or in equity, by the LGU or the State. The LGU and the State shall be entitled to recover an award of reasonable attorney's fees from Grantor in any action to enforce this Easement. The right to enforce the terms of this Easement is not waived or forfeited by any forbearance or failure to act on the part of the State or LGU. If the subject Bank Easement Area is to be used partially or wholly to fulfill permit requirements under the Federal Water Pollution Control Act or a federal farm program, then the provisions of this Easement that run to the State or the LGU may also be enforced by the United States of America in a court of competent jurisdiction.

12. Acknowledge that this Easement is not valid, nor can an account for wetland credits be established until the Easement has been accepted by the State, the Grantor has recorded this Easement and the State has received evidence of such recording.

SIGNATURE OF GRANTOR

SIGNATURE OF FEE OWNER(S):

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 20__ by
_____ (name(s) with marital status).

Notary Public

My commission expires: _____

Notarial Stamp or Seal

**SIGNATURE OF BANK APPLICANT (S),
IF DIFFERENT FROM FEE OWNER:**

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 20__ by
_____ (name(s) with marital status).

Notary Public

My commission expires: _____

Notarial Stamp or Seal

ACCEPTANCE

The State accepts the foregoing Easement.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES:

By: _____

Its: _____

[illegible]

This instrument was acknowledged before me this _____ day of _____, 20____
by _____ (name of person) as _____ (title)
of the Board of Water and Soil Resources.

Notary Public

Notarial Stamp or Seal

This instrument was drafted by the Board of Water and Soil Resources
520 Lafayette Road, St. Paul, MN 55155

If there are additional holders of interest the subject real property CHECK HERE [] and attach their Consent and Subordination agreement [BSR Form Number: wca-bank-03 (consent).doc].

EXHIBIT A

Legal Description of Real Property

EXHIBIT B

Map or Survey of Bank Easement Area