

GRANT OF ENCROACHMENT EASEMENT

This **GRANT OF ENCROACHMENT EASEMENT** (this "Grant of Easement") is executed as of the ___ day of May, 2012 by the City of Ramsey, Minnesota, a charter city organized and existing under the constitution and laws of the State of Minnesota (the "Grantor").

RECITALS

- A. Grantor owns the real property located in Anoka County, Minnesota legally described on the attached **Exhibit A** (the "Burdened Property"), on which Grantor has constructed a municipal parking ramp.
- B. F & C Development, Inc., an Indiana corporation (the "Grantee") owns real property located in Anoka County, Minnesota legally described on the attached **Exhibit B** (the "Benefited Property") that is adjacent to the Burdened Property and on which Grantee intends to construct a residential apartment building.
- C. In preparation for and in anticipation of the building improvements, Grantor constructed footings on the Burdened Property with the intention that such footings would provide support for both the municipal parking ramp constructed by Grantor and the residential apartment building constructed by Grantee.
- D. As a result of how the footings were constructed, Grantee's residential apartment building will encroach onto the Burdened Property. Grantor has therefore agreed to grant an easement for the encroachment to Grantee, subject to the terms set forth below.

In consideration of the foregoing, Grantor hereby declares:

GRANT OF EASEMENT

1. **Easement.** Grantor hereby grants, for the benefit of Grantee and Grantee's tenants, a perpetual, non-exclusive appurtenant easement over, under, and across that portion of the Burdened Property described on **Exhibit C** (the "Easement Area"). The easement is appurtenant to the Benefited Property. The purpose of the easement is to give Grantee the right to use the Easement Area and the footings located within the Easement Area for the construction, use, maintenance, repair and replacement of a portion of the residential apartment building that Grantee is constructing on Benefited Property.

2. **Enforcement.** The Grantor and Grantee have the right to enforce the terms of this Grant of Easement in a legal or equitable action brought in a court of competent jurisdiction, and the prevailing party in any such action is entitled to recover from the opposing party the prevailing party's attorney's fees and costs. No waiver by either party of any default under this Grant of Easement shall be effective or binding upon such party unless made in writing. No waiver of any default shall be deemed a waiver of any other or subsequent default hereunder.
3. **Amendment or Termination.** No amendment, modification or termination of this Grant of Easement shall be effective unless made by written instrument signed by Grantor and Grantee or their respective successors and assigns.
4. **Run With Title.** The Easement and covenants described herein run with title to the Burdened and Benefited Properties and inure to the benefit of and are binding upon all owners of the Burdened and Benefited Properties, their heirs, personal representatives and successors in title.
5. **Non-Merger.** It is the intent of the Grantor that if, at any time, the Burdened Property and the Benefited Property come under common ownership, the Easement created herein shall not merge into any successor owner's ownership.
6. **Counterparts.** This Grant of Easement may be executed in separate counterparts, all of which may subsequently be assembled into one agreement for recording or other purposes.
7. **Headings.** The headings of sections in this Grant of Easement are for convenience only. They form no part of this Grant of Easement and shall not affect its interpretation. All schedules, exhibits, addenda or attachments referred to are incorporated and made a part of this Grant of Easement.
8. **Integration.** This Grant of Easement sets forth the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements, whether written or oral.
9. **Recording.** This Grant of Easement shall be recorded against the title to each of the properties.
10. **Governing Law.** This Grant of Easement shall be governed by and construed under the laws of the State of Minnesota.

(Remainder of page intentionally left blank; signature page follows)

EXHIBIT A

(Legal Description of Burdened Property)

EXHIBIT B

(Legal Description of Benefited Property)

EXHIBIT C

(Legal Description of Easement)