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CONTRACT FOR PRIVATE DEVELOPMENT

BETWEEN

THE CITY OF RAMSEY, MINNESOTA

AND

H & P DEVELOPMENT L.L.C. ^①

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cc

This Instrument Drafted by:

Advance Resources for Development, Inc.
8960 Springbrook Drive
Coon Rapids, Minnesota 55433

Reviewed by:

Randall, Dehn & Goodrich
2140 Fourth Avenue North
Anoka, Minnesota 55303

THIS AGREEMENT, made and entered as of this 5th day of June, 2000, by and between the City of Ramsey, a Minnesota municipal corporation, having its principal office at 15153 Nowthen Boulevard Northwest, Ramsey, Minnesota ("City"), and H & P Development L.L.C., a Minnesota Limited Liability Company having his principal office at 13915 Radium Str. NW, Ste. A, Ramsey, MN 55303 ("Developer").

WITNESSETH:

WHEREAS, the City has created and established Development District No. 1 ("District") and Tax Increment Financing District No. 2 ("TIF District") pursuant to the authority granted in Minnesota Statutes, Sections 469.124 through 469.134 and Sections 469.174 through 469.179; (collectively, "the Acts"); and

WHEREAS, pursuant to the Acts, the City has adopted a Development District Program ("Program") and a Tax Increment Financing Plan ("TIF Plan") to finance all or a portion of the public development costs of the District; and

WHEREAS, in order to achieve the objectives of the Program and TIF Plan as hereinafter defined and particularly to make land in the District available for development by private enterprise for and in accordance with the Program, the City has determined to provide substantial aid and assistance through the sale of bonds and other obligations to finance public development costs in the District; and

WHEREAS, the Developers have proposed a development as hereinafter defined within the District which the City has determined will promote and carry out the objectives for which development in the District has been undertaken, will assist in carrying out the obligations of the Program and TIF Plan, will be in the vital best interests of the City, and the health, safety, morals and welfare of its residents, and is in accord with the public purposes and provisions of the applicable state and local laws and requirements under which development in the District has been undertaken and is being assisted.

WHEREAS, the City intends to construct certain improvements listed in the Capital Improvement Program including, but not limited to, additional wells and water towers, using the increments generated by the projects constructed in the Tax Increment Financing Districts.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the City and the Developer, each party does hereby represent, covenant and agree with the other as follows:

ARTICLE I

DEFINITIONS, EXHIBITS, RULES OF INTERPRETATION

Section 1.1 Definitions. In this Agreement, the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

- (a) Certificate of Completion. A certificate in the form of Exhibit E to this agreement to be issued by the City to the Developer upon substantial completion of the minimum improvements
- (b) City. The City of Ramsey, Anoka County, Minnesota.
- (c) Closing Date. June 5, 2000 or such earlier date on which the parties may agree.
- (d) Construction Plans. Collectively, the plans, drawings, and related documents described in Exhibit B to this agreement.
- (e) Developer. H & P Development L.L.C., a Minnesota Limited Liability Company.
- (f) Development Property. The property legally described in Exhibit A hereto.
- (g) Development District ("District"). Development District No. 1, created by the City pursuant to M.S. §469.124 through §469.134 and described in the Program adopted therefore.
- (h) Development District Program ("Program"). The plan for development of the District adopted by the City pursuant to M.S. §469.124 through §469.134.
- (i) Holder. The owner of a Mortgage.
- (j) Market Value. The market value of the Development Property as determined by the County Assessor in accordance with M.S. §273.11 (or as finally adjusted by an assessor, board of equalization, commissioner of revenue, or any court).
- (k) Maturity Date. The earlier of (i) December 31, 2012 and (ii) the date all financial assistance provided by the City described in Section 2.2(i) has been recovered from Tax Increments generated by the Development Property.
- (l) Minimum Improvements. The office and warehouse/manufacturing building to be constructed by Developer in accordance with the Construction Plans.
- (m) Minimum Market Value. The minimum market value for the development property as set forth in Section 6.1 hereof.
- (n) Mortgage. The mortgage references in Article VII of this Agreement and any deed of trust or other instrument creating an encumbrance or lien upon the Development Property or any part thereof, as security for a loan.

(o) Net Tax Increment. The remaining increment after the subtraction of County and reasonable City Administrative Charges, Fiscal Disparities Contributions, Original Tax Capacity and all other charges required by the Acts.

(p) Site Improvements. Collectively, the site preparation and other improvements to be constructed by the City on, or adjacent to, the Development Property, pursuant to the Site Improvement Plans.

(q) Site Improvement Plans. Collectively, the plans, drawings and related documents described in Exhibit C of this agreement.

(r) Tax Increment. The tax increments produced by increases in the valuation of property in the TIF District.

(s) Tax Increment Bonds ("TIF Bonds"). The general obligation tax increment bonds issued by the City to finance the Site Improvements on the Development Property and related costs. The term also includes any bonds or obligations issued to refund any TIF Bonds.

(t) Tax Increment Financing District ("TIF District"). TIF District No. 2 created by the City pursuant to M.S. §469.174 through §469.179 and described in the TIF Plan adopted therefore.

(u) Tax Increment Financing Plan ("Plan"). The plan for development of the TIF District adopted by the City pursuant to M.S. §469.174 through §469.179.

(v) Unavoidable Delays. Delays beyond the reasonable control of the party seeking to be excused as a result thereof, which are the direct result of strikes, other labor troubles, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City in exercising its rights under this Agreement) which directly result in delays.

(w) Other Terms. Terms defined in other sections of this agreement have the meanings given them.

Section 1.2. Exhibits. The following Exhibits are attached to and, by reference, made a part of this Agreement:

- A. Legal Description of Development Property
- B. Construction Plans
- C. Development Permit
- D. Assessment Agreement and Certificate of County Auditor
- E. Certificate of Completion
- F. Lien Agreement
- G. Agreement to Pay Deficiencies

Section 1.3. Rules of Interpretation.

(a) This Agreement shall be interpreted in accordance with and governed by the laws of the State of Minnesota.

(b) The words "herein" and "hereof" and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than any particular section or subdivision hereof.

(c) References herein to any particular section or subdivision hereof are to the section or subdivision of this Agreement as originally executed.

(d) Any titles of the several parts, articles, and sections of this Agreement are inserted for convenience and reference only and shall be disregarded in construing or interpreting any of its provisions.

ARTICLE II

REPRESENTATION AND UNDERTAKINGS

Section 2.1. By the Developer. The Developer makes the following representations and undertakings:

- (a) The Developer has the legal authority and power to enter into this Agreement.
- (b) The Developer will construct the Minimum Improvements in accordance with the terms of this Agreement, the Program, the TIF Plan, and all local, state and federal laws and regulations.
- (c) Upon completion of the Minimum Improvements, the Developer Will operate and maintain, or cause to be operated and maintained, the Minimum Improvements until the Maturity Date.
- (d) That Minimum Improvements will be permitted uses under City ordinance, and will be constructed in conformity with the Program and TIF Plan, and will be constructed by the Developer at a minimum market value of at least One Million Four Hundred Thousand Dollars (\$1,400,000).
- (e) The Developer has received no notice or communication from any local, state or federal official that the activities of the Developer or the City in the Development District may be, or will be, in violation of any environmental law or regulation (other than those notices or communications of which the City is aware). The Developer is aware of no facts, the existence of, which would cause it to be in violation of or give any person a valid claim under any local, state or federal environmental law, regulation or review procedure.
- (f) Subject to unavoidable delays, the Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.
- (g) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of, or compliance with, the terms and conditions of this Agreement, is prevented, limited by, or conflicts with, or results in a breach of the terms, conditions, or provisions of any corporate restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which the Developer is bound, or constitutes a default under any of the foregoing.
- (h) The Developer will cooperate with the City with respect to any litigation, other than litigation in which the City and the Developer are adverse parties, commenced with respect to the TIF Plan, the Program, or Minimum Improvements.

(i) Business Subsidies Act

(i) In order to satisfy the provisions of Minnesota Statutes, Sections 116J.993 to 116J.995 (the Business Subsidies Act), the Developer acknowledges and agrees that the amount of the Business Subsidy granted by the City to the Developer under this Agreement is \$252,806 which is an amount equal to the fair market value of the development property, site improvements and capitalized interest. The Developer further acknowledges that the Business Subsidy is needed because the Project is not sufficiently feasible for the Developer to undertake without the Business Subsidy. The Tax Increment District is a redevelopment district and the public purpose of the Business Subsidy is to encourage the redevelopment of the property in the City. The Developer agrees that it will meet the following goals (the "Goals"): It will create at least 10 full time jobs in connection with the development of the Development Property at an hourly wage of at least \$10.00 per hour within two years from the Benefit Date, which is the date of the building permit issued by the city for the redevelopment of the property.

(ii) If the Goals are not met, the Developer agrees to repay all or a part of the Business Subsidy to the City, plus interest ("Interest") set at the implicit price deflator defined in Minnesota Statutes, Section 275.70, Subdivision 2, accruing from and after the Benefit Date, compounded semiannually. If the Goals are met in part, the Developer will repay a portion of the Business Subsidy (plus Interest) determined by multiplying the Business Subsidy by a fraction, the numerator of which is the number of jobs in the Goals which were not created at the wage level set forth above and the denominator of which is 10 (i.e. number of jobs set forth in the Goals). The Developer agrees to continue its operations on the Development Property for at least five years after the Benefit Date.

(iii) The Developer agrees to (i) report its progress on achieving the Goals to the City until the Goals are met, or the Business Subsidy is repaid, whichever occurs earlier, (ii) include in the report the information required in Subdivision 7 of the Jobs Act on forms developed by the Minnesota Department of Trade and Economic Development, and (iii) send completed reports to the Commissioner of the Department of Trade and Economic Development and to the City. The Developer agrees to file these reports no later than March 1 of each year commencing March 1, 2001, and within 30 days after the deadline for meeting the Goals. The City agrees that if it does not receive the reports, it will mail the Developer a warning within one week of the required filing date. If within 14 days of the post marked date of the warning the reports are not made, the Developer agrees to pay to the City a penalty of \$100 for each subsequent day until the report is filed up to a maximum of \$3,000.

(iv) The Developer agrees to continue operations on the Development Property for at least five (5) years after the Benefit Date. There are no other state or local government agencies providing financial assistance for the Project other than the City.

(j) The Developer shall pay to the City all Legal and Administrative Expenses that have been incurred by the City in association with the project within 15 days of a notice by the City indicating the Legal and Administrative Expenses that are currently due and owing.

Section 2.2 By the City. The City makes the following representations as the basis for the undertaking on its part herein contained:

(a) The City is authorized by law to enter into this Agreement and to carry out its obligations hereunder.

(b) The City has found that the TIF District is a "redevelopment tax increment financing district," pursuant to M.S. §469.174.

(c) The City will, in a timely manner, subject to all notification requirements, review and act upon all submittals and applications of the Developer, and will cooperate with the efforts of the Developer to secure the granting of any permit, license, or other approval required, to allow the construction of the Minimum Improvements; provided, however, that nothing contained in this subparagraph shall be construed to Emit in any way the reasonable and legitimate exercise of the City's discretion in considering any submittal or application.

(d) The activities of the City are undertaken for the purpose of fostering the redevelopment of certain real property which, for a variety of reasons, is presently unutilized and underutilized and for the purpose of promoting economic development and the creation of employment opportunities.

(f) The City will cooperate with the Developer with respect to any litigation, other than litigation in which the City and the Developer are adverse parties, commenced with respect to the TIF Plan, Program, or Minimum Improvements.

(g) The Development Property is properly zoned for the developer's intended use and the Minimum Improvements contemplated by the construction Plans are in conformity with the Program and TIF Plan.

(h) The City has received no notice or communication from any local, state or federal official that the activities of the Developer or the City in the Development District may be, or will be, in violation of any environmental law or regulation (other than those notices or communications of which the Developer is aware). The City is aware of no facts, the existence of, which would cause it to be in violation of, or give any person a valid claim, under any local, state or federal environmental law, regulation or review procedure.

(i) The City will provide the following financial assistance to the Developer of the Development Property. This assistance will be a total of \$252,806. The financial assistance from the City shall be based upon the following calculations:

Site and Public Improvements	\$212,782
Capitalized Interest for 2 years @ 9%	<u>40,024</u>
Total	\$252,806

These site improvement payments will be made only if all property taxes and City fees and charges on the property are current and a Certificate of Occupancy has been issued for the structure. The developer will waive any interest or penalty for any payment withheld.

Section 2.3 Title and Survey. City, at City's expense, shall promptly obtain and deliver to Developer a commitment for an owner's title insurance policy (ALTA Owner's Form Policy 1992) issued by a title insurance company acceptable to Developer ("Title Company"), naming Developer as the proposed owner-insured of the Development Property in the amount of \$212,782 (the "Commitment"), together with copies of all documents referred to in the Commitment. The Commitment shall commit to insure fee title in Developer, free and clear of all mechanic's lien claims, questions of survey, unrecorded interests, rights of parties in possession, or other exceptions.

Developer will be allowed ten (10) business days after receipt of the Commitment, the copies of the documents referred to in the Commitment and the Survey (as hereinafter defined) for examination thereof, and for making any objections to the marketability of the title to the Development Property, said objections to be made by written notice or to be deemed waived. Developer need not object to mortgages or other monetary liens. If any objections are so made to the marketability of the title to the Development Property, City shall immediately commence and diligently endeavor to complete all actions necessary to cure the objections, including, but not limited to, the institution of "quick take" eminent domain proceedings, and shall be allowed until the Closing Date to cure such objections and make the title to the Development Property good and marketable of record in City and to obtain and deliver to Developer appropriate endorsements to the Commitment and an updated Survey indicating that any such objections have been cured. If not sooner satisfied, City shall satisfy any mortgages or other monetary liens against the Development Property at the closing. If the title to the Development Property, as evidenced by the Commitment and Survey together with any updating of the Commitment and Survey, is not made good and marketable of record in City on the Closing Date, Developer, at its option, may terminate this Agreement by giving written notice to City in which event this Agreement shall become null and void, and neither party shall have any further rights, obligations, or liability hereunder.

City agrees to promptly obtain and deliver to Developer, at City's expense, a currently dated survey of the Development Property ("Survey"), prepared by a Minnesota registered land surveyor acceptable to Developer and City. The Survey will be certified to City, Developer, and Title Company. The Survey shall show the exact location, legal description, and boundary lines of the Development Property; the nature and location of all easements and encroachments from or on the Development Property; the square footage of the Development Property. The Survey shall be certified to meet the Minimum Detail Standards adopted in 1992 by ALTA/ASCM for

Class A urban surveys, including Items 1, 3, 4, 6, 8, and 13 of Table A thereto, and shall otherwise be in form reasonably acceptable to Developer.

Section 2.4 Inspection. Developer, its agents and designees, are hereby granted the right, at all reasonable times, to enter upon and inspect, analyze, and test the Development Property and its various components for all reasonable purposes, including, but not limited to, investigations for the presence of asbestos, PCBs and other hazardous substances, hazardous wastes, pollutants, or contaminants on the Development Property. Developer shall pay for the cost of all investigations of the Development Property which are ordered by Developer. Developer hereby agrees to indemnify and hold City harmless from any claims, damage, costs, and liability including, without limitation, reasonable attorney's fees, resulting from the entering upon the Development Property or the performing of any of the analyses, tests, or inspections referred to in this Paragraph; however, nothing contained herein shall be deemed to require Developer to indemnify or hold City harmless from any liability for any environmental remediation which based upon Developer's tests or inspections, may be determined to be necessary, pursuant to applicable law or regulation. The provisions of this Paragraph shall survive the closing or termination of this Agreement.

Section 2.5 Environmental Audit. As soon as practicable after the execution of this Agreement, City shall provide to the developer a dated phase one environmental audit ("Environmental Audit") of the Development Property if one is available.

Section 2.6 Obligations on Closing Date. At the closing, City shall execute, where appropriate, and deliver to Developer:

- a. A warranty deed ("Deed"), properly executed on behalf of City in recordable form, with all applicable real property transfer taxes paid and stamps, if any, affixed thereto, conveying the Development Property to Developer. The Deed shall contain the following statement: "The City certifies that the City does not know of any wells on the described Development Property" unless City delivers a well certificate described in Subparagraph (f) hereof.
- b. All certificates, instruments, and other documents necessary to permit the recording of the Deed.
- c. A policy of title insurance issued pursuant to the Commitment, subject to no exceptions other than those accepted by Developer pursuant to Section 2.3 hereof together with the abstracts of title to any portion of the Development Property which is abstract property and the owners' duplicate certificate of title to any portion of the Development Property which is registered property; provided, however, Developer shall pay the premium for the policy of title insurance.
- d. A standard Seller's Affidavit with respect to judgments, bankruptcies, tax liens, mechanics liens, parties in possession, unrecorded interests, encroachment or boundary line questions, and related matters, properly executed on behalf of City.
- e. Any well certificate required by M.S. §1011.235.

- f. The Assessment Agreement.
- g. The Lien Agreement.
- h. The Agreement to Pay Deficiencies.
- i. If requested, a subordination agreement, subordinating the Lien Agreement to a First Mortgage granted against the Development Property by Developer.

At the closing, Developer shall execute, where appropriate, and deliver to the City:

- a. The Developer Permit in the form attached.
- b. The Assessment Agreement.
- c. The Lien Agreement.
- d. The Agreement to Pay Deficiencies.

Section 2.7 Real Estate Taxes, Special Assessments, Utility Bills. Real estate taxes due and payable in all years prior to that in which closing occurs, including any amounts otherwise payable in such years which may have been deferred pursuant to the Minnesota Statutes or other applicable law, shall be paid by City. Real estate taxes due and payable in the year in which closing occurs, including any amount otherwise payable in such year which may have been deferred pursuant to the Minnesota Statutes or other applicable law, shall be prorated as of the Closing Date based upon the parties' respective periods of ownership of the Development Property in the calendar year of closing.

On or prior to the Closing Date, City shall pay all special assessments, whether or not then due, then levied against the Development Property or pending for improvements with respect to which, as of the date of this Agreement, the letting of contracts has been duly authorized by appropriate governmental action.

Section 2.8 Possession. City shall deliver possession of the Development Property to Developer on the Closing Date.

Section 2.9 Developer's Contingencies. Developer's obligation to close under this Agreement is expressly conditioned upon each of the following contingencies being satisfied or waived on or before the closing date:

- a. The Environmental Audit and Developer's inspections and investigations of the Development Property shall have disclosed no unsatisfactory conditions or defects, including no unsatisfactory environmental conditions.

- b. Developer having determined that the Development Property is physically suitable (including but not limited to, the elevation and soil conditions), for the construction thereon of the Minimum Improvements.
- c. Developer having determined that it will be able to obtain and the City having approved financing which, together with Developer's equity, is sufficient for the Construction of the Minimum Improvements.

All of the foregoing contingencies are for Developer's sole benefit. Whether or not the foregoing contingencies have been satisfied shall be determined by Developer in the exercise of its sole and absolute discretion. In the event that any of the foregoing contingencies are not satisfied, or satisfaction thereof is not waived by Developer giving written notice to City of said waiver on or before the Contingency Expiration Date, Developer may, at its option, terminate this Agreement by giving written notice to City on or before the Contingency Expiration Date. If Developer so terminates this Agreement, neither party shall have any further rights, obligations or liability under this Agreement.

ARTICLE III

CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1 Construction of Minimum Improvements. The Developer agrees that it will construct the Minimum Improvements on the Development Property in accordance with the Construction Plans and the terms of this Agreement and, at all times prior to the Maturity Date, will cause the Minimum Improvements to be maintained in good repair and condition.

Section 3.2 Building Plans. No building permits shall be issued unless the plans are in conformity with the Construction Plans, the Program, the TIF Plan, this Agreement, and all local, state and federal regulations. The City shall, within ten (10) business days of receipt of building plans for the Minimum Improvements, review such plans to determine whether the requirements have been met. If the City determines such plans to be deficient, it shall notify the Developer, in writing, stating the deficiencies and the steps necessary for correction. Issuance of a building permit for the Minimum Improvements by the City shall be a conclusive determination that the building plans for the respective Minimum Improvements have been approved and shall satisfy these provisions.

Section 3.3 Commencement and Completion of Construction.

(a) Subject to Unavoidable Delays, the Developer shall commence construction of the Minimum Improvements by July 1, 2000 and shall substantially complete such construction by December 31, 2000.

(b) The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or part thereof, that the Developer, and such successors and assigns, shall promptly begin, and diligently prosecute to completion, the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section 3.3 of this Agreement. Periodically during construction, but at intervals of not less than monthly, the Developer must make reports in such detail as may reasonably be requested by the City about the actual progress of construction.

Section 3.4 Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements, in accordance with those provisions of the Agreement, the City will furnish the Developer with a Certificate of Completion as described in Exhibit D hereto. Issuance of the Certificate of Completion by the City shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement with respect to the obligations of the Developer, and its successors and assigns, to construct the Minimum Improvements, and the dates for the beginning and completion thereof. Issuance of the Certificate of Completion and such determination shall not constitute evidence of compliance with, or satisfaction of, any obligation of the Developer to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) The Certificate of Completion shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the City refuses or fails to provide any Certificate of Completion in accordance with the provisions of this Section, the City shall, within thirty (30) days after written request by Developer, provide the Developer with a written statement, indicating, in adequate detail, in what respects the City believes that the Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain a Certificate of Completion .

(c) The construction of the Minimum Improvements shall be deemed to be substantially completed when the Developer has received a Certificate of Occupancy from the City. The City will not arbitrarily or unreasonably withhold or delay issuance of a Certificate of Occupancy for the Minimum Improvements upon request for its issuance.

ARTICLE IV

CONSTRUCTION OF SITE IMPROVEMENTS

Section 4.1 Construction of Site Improvements. The City has constructed the following Site Improvements for the Development Property in conformance with the requirements of the Developer to fulfill the provisions of the Site Improvement Plan (Exhibit C).

- (a) Extension of 140th Street Northwest, east from Unity Street Northwest to serve the property.
- (b) Extension of City Services to the Development Property.

The City shall retain a lien on the Development Property in the amount of \$252,806 until completion of the Minimum Improvements by the Developer, which amount represents the cost to the City of the site and the construction of the Site Improvements for the Development Property. The Lien Agreement shall be substantially in the form attached as Exhibit F.

ARTICLE V

INSURANCE AND CONDEMNATION

Section 5.1 Insurance During Construction.

(a) The Developer will provide and maintain, at its expense, at all times during the process of construction of the Minimum Improvements, an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the City, furnish the City with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk --Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy. The interest of the City shall be protected in accordance with a clause in form and content satisfactory to the City.

(ii) Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's/Contractor's Policy with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence. (To accomplish the above-required limits, an umbrella excess liability policy may be used).

(iii) Workers' compensation insurance, with statutory coverage.

Section 5.2 Insurance After Completion.

(a) Upon completion of the construction of the Minimum Improvements and prior to the Maturity Date, the Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time, at the request of the City, shall furnish proof of the payment of premiums on insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering fire and such other risks as are ordinarily insured against by similar businesses under policies of casualty insurance.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons, property, or both, in, on or about the Development Property in the minimum amount for each occurrence and for each year, of \$ 1,000,000, and shall be endorsed to show the City as additional insured.

(iii) Such other insurance, including workers' compensation insurance representing all employees of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure,

provided that the Developers may be self-insured with respect to all or any part of its liability for workers' compensation.

(b) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies, selected by the Developer, which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit annually, with the City, policies evidencing all such insurance, or a certificate or certificates, or binders of the respective insurers, stating that such insurance is in force and effect. Unless otherwise provided in Article V of this Agreement, each policy shall contain a provision that the insurer shall not cancel, nor modify, it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to the Developer and the City at least thirty (30) days before the cancellation or modification becomes effective. In lieu of separate policies, the Developer may maintain a single policy, blanket or umbrella policy, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(c) The Developer agrees to notify the City immediately in the case of damage exceeding \$100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty occurring prior to the Maturity Date. In such event, the Developer either will forthwith repair, reconstruct and restore the Minimum Improvements to substantially the same or an improved condition or value as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Developer will apply the net proceeds of any insurance relating to such damage received by the Developer to the payment or reimbursement of the costs thereof, or pay the City the unpaid balance of the financial assistance as set forth in Section 2.2.

The Developer shall complete the repair, reconstruction and restoration of the Minimum Improvements, whether or not the net proceeds of insurance received by the Developer for such purposes are sufficient to pay for the same. Any net proceeds remaining after completion of such repairs, construction and restoration shall be the property of the Developer.

(d) Notwithstanding anything herein to the contrary any insurance proceeds payable pursuant to this ARTICLE V are subject to the terms and conditions of any first mortgage encumbering the Development Property.

(e) The Developer and the City agree that all of the insurance provisions set forth in this Article V shall terminate upon the Maturity Date.

ARTICLE VI

TAX INCREMENT

Section 6.1 Assessment Agreement. The City and the Developer shall execute the Assessment Agreement and Certification of County Assessor contained in Exhibit D of this Agreement. The City shall then present the Assessment Agreement to the county assessor for certification. The assessor shall assign a market value to the property which shall not be less than One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000). The market value so established may, in the discretion of the assessor, exceed the Minimum Market Value.

Section 6.2 Review of Taxes. Except as otherwise provided in this Agreement, the Developer shall pay all real property taxes and special assessments assessed against the Development Property. The Developer agrees that prior to the Maturity Date:

(a) It will not seek administrative review or judicial review of the applicability of any property tax statute determined by any tax official to be applicable to the Development Property or the Developer, or raise the applicability of any such tax statute as a defense in any proceedings including delinquent tax proceedings;

(b) It will not seek administrative review or judicial review of the constitutionality of any such tax statute determined by any tax official to be applicable to the Development Property or to the Developer, or raise the unconstitutionality of such tax statute as a defense in any proceedings, including delinquent proceedings;

(c) It will not request the assessor to reduce the assessed market value or tax capacity of all or any portion of the Development Property;

(d) It will not petition the board of equalization of the City or the board of equalization of the county to reduce the assessed market value or tax capacity of all or any portion of the Development Property;

(e) It will not petition the board of equalization or commissioner of revenue of Minnesota to reduce the assessed market value or tax capacity of all or any portion of the Development Property;

(f) It will not commence an action in a district court or the tax court of the state pursuant to Minnesota Statutes, Chapter 278, seeking a reduction in the assessed market value or tax capacity of the Development Property;

(g) It will not make an application to the Minnesota commissioner of revenue requesting an abatement of real property taxes pursuant to Minnesota Statutes, Chapter 270; and

(h) It will not commence any other proceedings, whether administrative, legal or equitable, with any administrative body within the City, county, or the state, or with any court of the state or the federal government with regard to the Minimum Market Value contained in the Assessment Agreement. The Developer shall not, prior to the Maturity Date, apply for a deferral of property tax on the Development Property.

Nothing contained herein shall be deemed to limit the right or opportunity of the Developer to challenge through any of the means set forth above, or otherwise, that part of any valuation or the market value which is in excess of the stipulated value contained in the Assessment Agreement; provided, however, that the Developer may not institute or prosecute any challenge to the excess which, if successful, would also result in a reduction of the assessment below the stipulated value. Further, nothing contained herein shall be deemed to limit the right or opportunity of the Developer to challenge through any of the means set forth above, or otherwise, the tax capacity of the Development Property; provided, however, that Developer may not institute or prosecute any such challenge for any year to the extent that, if successful, such challenge would cause the Net Tax Increment generated by the Development Property for such year to be less than Thirty-five Thousand Six Hundred Fifty seven Dollars (\$35,657).

Section 6.3 Agreement to Pay Deficiencies. The Developer and the City shall execute the Agreement to Pay Deficiencies contained in this Agreement as Exhibit G.

Section 6.4 Right to Collect Delinquent Taxes. The Developer acknowledges that the City is providing substantial aid and assistance in furtherance of the development through tax increment financing. The Developer understands that the increment will be used to reimburse the City for the cost of the Site Improvements and, therefore, the real estate taxes must be promptly and timely paid. To that end, the Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes due and payable with respect to the Development Property prior to the Maturity Date based upon the minimum market value as stipulated in the Assessment Agreement. The Developer acknowledges that this obligation creates a contractual right on behalf of the City to sue the Developer or its successors and assigns to collect such delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the City shall also be entitled to recover its costs, expenses and reasonable attorney fees.

ARTICLE VII

MORTGAGE FINANCING

Section 7.1 Financing.

(a) On or before the closing date, the Developer shall submit, to the City, evidence of one or more commitments for financing which, together with committed equity for such construction, is sufficient for the construction of the Minimum Improvements. Such commitments may be submitted as short term financing, long term mortgage financing, a bridge loan with a long term take-out financing commitment, or any combination of the foregoing. Such commitment or commitments for short term or long term financing shall be subject only to such conditions as are normal and customary in the banking industry.

(b) If the City finds that the financing is sufficiently committed and adequate in amount to provide for the construction of the Minimum Improvements, then the City shall notify the Developer, in writing, of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within 10 days from the date when the City is provided the evidence of financing. A failure by the City to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the City rejects the evidence of financing as inadequate, it shall do so, in writing, specifying the basis for the rejection. In any event, the Developer shall submit adequate evidence of financing within 30 days after such rejection.

Section 7.2 City's Option to Cure Default on Mortgage. In the event that there occurs a default under any Mortgage authorized pursuant to Article VII of this Agreement, the Developers shall cause the City to receive copies of any notice of default received by any developers from the holder of such Mortgage. Thereafter, the City shall have the right, but not the obligation, to cure any such default on behalf of the Developer within such cure periods as are available to the Developer under the Mortgage documents.

ARTICLE VIII

PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

Section 8.1 Representation as to Development. The Developer represents and agrees that its undertakings, pursuant to this Agreement, are for the purpose of development of the Development Property and not for speculation in landholding. The Developer further recognizes that, in view of:

(a) The importance of the development of the Development Property to the general welfare of the City; and

(b) The substantial financing and other public aids that have been made available by the City for the purpose of making the Minimum Improvements possible, the qualifications and identity of the Developer are of particular concern to the City.

The Developer further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement, and, in so doing, is further willing to rely on the representations and undertakings of the Developer for the faithful performance of all undertakings and covenants agreed by Developer to be performed.

Section 8.2 Prohibition Against Transfer of Property and Assignment of Agreement. For the reasons set out in Section 8.1 of this Agreement, the Developer represents and agrees that, prior to the issuance of the Certificate of Completion:

(a) Except only by way of security for, and only for the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations under this Agreement, and any other purpose authorized by this Agreement, the Developer, except as so authorized, has not made or created, and will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or any trust or power, or transfer in any other form of, or with respect to this Agreement, or the Development Property, or any part thereof, any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City; and

(b) The City shall be entitled to require, except as otherwise provided in this Agreement, conditions to any such approval under this Section 8.2 that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer, or in the event the transfer is of, or relates to, the Development Property, such obligations to the extent that they relate to such part.

(ii) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records shall, for itself and its successors and assigns,

and specifically for the benefit of the City, have expressly assumed all of the obligations of the Developer under this Agreement and agreed to be subject to such obligations, restrictions and conditions or, in the event the transfer is, of, or relates to, part of the Development Property, such obligations, conditions, and restrictions to the extent that they relate to such part; provided, that the fact that any transferee of, or any other successor in, interest whatsoever to, the Development Property or any part thereof, shall, for whatever reason, not have assumed such obligations or agreed to do so, shall not, unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the City, relieve or except such transferee or successor from such obligations, conditions, or restrictions, or deprive or limit the City of, or with respect to, any rights or remedies or controls with respect to the Development Property or the construction of the Minimum Improvements; it being the intent of this Section, together with other provisions of this Agreement, that to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement, no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however, consummated or occurring, whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of any rights or remedies with respect to the Development Property and the construction of the Minimum Improvements that the City would have had, had there been no such transfer or change.

(iii) There shall be submitted to the City, for review, all instruments and other legal documents involved in effecting transfers described herein, and if approved by the City, its approval shall be indicated to the Developer in writing.

In the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Developer from any of its obligations with respect thereto.

(c) Notwithstanding the limitations set forth in Article VIII the City approves and consents that Developer may lease the Development Property provided that the lessee expressly assume all obligations of the Developer under this Agreement in the manner set forth in Section 8.2(b)(ii) herein. Absent specific written agreement by the City to the contrary, such action shall not be deemed to relieve the Developer from any of its obligations under this Agreement.

(d) No provision of Section 8.2 shall be construed or interpreted to prohibit the Developer from transferring the Development Property and/or Developers rights under this agreement to a partnership or limited liability company in which the Developer is the owner of 51 % or more of the partnership or membership interests.

Section 8.3 Approvals. Any approval required to be given by the City under Article VIII may be denied only in the event that the City reasonably determines that the ability of the Developer to their obligations under this Agreement will be materially impaired by the action for which approval is sought.

ARTICLE IX

INDEMNIFICATION

Section 9.1 Release and Indemnification Covenants. The Developer releases from and agrees that the City and governing body members, officers, agents, servants and employees thereof, shall not be liable for, and agrees to indemnify and hold harmless the City and the governing body members, officers, agents, servants and employees thereof against, any loss or damage to property or any injury to or death of any person occurring at, or about, or resulting from any defect in the Minimum Improvements except any loss, damage, injury or death arising from negligence or willful acts of the City, its officers, employees, agents or contractors.

(a) Except for any negligent or willful misrepresentation or any negligent, willful or wanton misconduct of the following named parties, the Developer agrees to protect and defend the City and the governing body members, officers, agents, servants and employees thereof, now or forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action, or other proceeding whatsoever, by any person or entity whatsoever arising or purportedly arising from the acquisition, construction, installation, ownership, and operation of the Minimum Improvements by the Developer.

(b) The City and the governing body members, officers, agents, servants or employees shall not be liable for any damage or injury to the persons or property of the Developer, or its officers, agents, servants or employees, or any other person who may be about the Development Property or Minimum Improvements due to any act of negligence of any person except any loss, damage, injury or death arising from negligence or willful acts of the City, its officers, employees, agents or contractors.

(c) All covenants, stipulations, promises, agreements and obligations of the City contained herein, shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.

ARTICLE X

EVENTS OF DEFAULT

Section 10.1 Events of Default Defined. The following shall be deemed Events of Default under this Agreement and the term shall mean, whenever it is used in this Agreement, unless the context otherwise provides, any one or more of the following events:

(a) Failure by the Developer to pay, when due, the payments required to be paid or secured under any provision of this Agreement, the Assessment Agreement, or the Agreement to Pay Deficiencies;

(b) Failure by the Developer to observe and substantially perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder, after written notice to the Developer as provided in this Agreement;

(c) If the Developer shall admit, in writing, its inability to pay its debts, generally, as they become due, or shall file a petition in bankruptcy, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of the whole or any substantial part of the Development Property;

(d) If the Developer shall file a petition under the federal bankruptcy laws;

(e) If the Developer, on a petition in bankruptcy filed against it, be adjudicated a bankrupt, or a court of competent jurisdiction, shall enter an order of decree appointing, without the consent of the Developer, a receiver of the Developer, or of the whole or substantially all of its property; or approve a petition filed against the Developer seeking reorganization or arrangement of the Developer under the federal bankruptcy laws, and such adjudication, order or decree shall not be vacated or set aside or stayed within 60 days from the date of entry thereof; or

(f) If the Developer is in default under any Mortgage and has not entered into a workout agreement with the Mortgagee.

Section 10.2 Remedies on Default. Whenever any Event of Default occurs, the City may, in addition to any other remedies or rights given the City under this Agreement, but only after the Developer's failure to cure within 30 days of written notice of default (33 days if the notice is delivered by mail), take one or more of the following actions:

(a) Suspend its performance under this Agreement until it receives assurances from the Developer, deemed reasonably adequate by the City, that the Developer will cure the default and continue its performance under this Agreement;

(b) Cancel and rescind or terminate this Agreement;

(c) Withhold the Certificate of Completion; or

(d) Take whatever action at law or in equity may appear necessary or desirable to the City to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the City or Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or hereafter, existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right, and power may be exercised from time to time and as often as may be deemed expedient.

In order to entitle the City or the Developer to exercise any remedy reserved to them, it shall not be necessary to give notice, other than such notice as may be required in this Article X.

Section 10.4 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 10.5 Remedies on City Default. If the City fails to pay and/or observe and substantially perform any covenant, condition or obligation on its part to be paid, observed or performed hereunder, the Developer may, in addition to any other remedies or rights given the Developer under this Agreement, but only after the City's failure to cure within 30 days of written notice of default (33 days if the notice is delivered by mail), take whatever action at law or in equity may appear necessary or desirable to the Developer to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the City under this Agreement.

ARTICLE XI

ADDITIONAL PROVISIONS

Section 11.1 Conflict of Interests. Representatives Not Individually Liable. No City officer who is authorized to take part in any manner in making this Agreement in his or her official capacity shall voluntarily have a personal financial interest in this Agreement or benefit financially therefrom. No member, official, or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligations under the terms of this Agreement.

Section 11.2 Agreement Recorded. This Agreement shall run with the Development Property until the Maturity Date and shall be recorded by the City in the office of the Anoka County Recorder.

Section 11.3 Non-Discrimination. During the life of this contract, the provisions of M.S. § 181.59, which relate to civil rights and non-discrimination, and any affirmative action program of the City, shall be considered a part of this Agreement and binding on the Developer as though fully set forth herein.

Section 11.4 Amendment. This Agreement may be amended by the parties hereto only by written instrument executed in accordance with the same procedures and formality followed for the execution of this Agreement.

Section 11.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 11.6 Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under this Agreement, by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested or delivered personally:

- | | |
|--------------------------|--|
| (a) As to the City: | City of Ramsey
City Administrator
15153 Nowthen Boulevard Northwest
Ramsey, Minnesota 55303 |
| (b) As to the Developer: | H & P Development L.L.C.
13915 Radium Str. NW, Ste A
Ramsey, Minnesota 55303 |

Either party may, by giving 10 days notice to the other party as provided above, change the place to which notifications are to be sent.

Legal Description of Development Property

Lots 1 and 1A, Block 1, WEST RADIUM BUSINESS CENTER FIRST ADDITION, Anoka
County, Minnesota

Construction Plans

**CITY OF RAMSEY
DEVELOPMENT PERMIT
WEST RADIUM BUSINESS CENTER**

On , March 28, 2000, Site Plan approval was granted by the City of Ramsey ("City") to H&P Development, 13915 Radium Street, Suite A, Ramsey, MN 55303, to construct two-31,600 square foot office and warehouse facilities ("Structure") on the property which is legally described as follows:

Lot 1 and 1A, Lot 2 and 2A, Block 1, West Radium Business Center First Addition, Anoka County, Minnesota

This approval is issued pursuant to §9.03.06 of the City Code. The conditions of this approval are as follows:

1. **STRUCTURE.** All building plans must be prepared and certified by a registered engineer or architect.
2. **STATE BUILDING CODE COMPLIANCE.** The Structure shall be constructed in accordance with the requirements of the State Building Code.
3. **SITE PLAN COMPLIANCE.** The Structure shall be constructed as shown on the Site Plan submitted by the Permittee, which Site Plan was prepared by Lampert Architects, dated February 15, 2000, first revision date March 3, 2000 and second revision date March 24, 2000.
4. **REQUIRED IMPROVEMENTS.** The Permittee shall construct and install the following site improvements on the Site in accordance with the specifications and location as shown on the Site Plan referenced above. The Required Improvements are as follows:
 - a. Bituminous driveways, off-street parking, and maneuvering areas
 - b. Concrete curbing around the perimeter of all bituminous surfaces.
 - c. Site grading in accordance with the Grading, Drainage and Erosion Control Plan, prepared by Hakanson Anderson Associates, Inc., dated February 15, 2000, revision date _____.
 - d. Sod and seed
 - e. Establishment of plantings in accordance with the Landscape Plan prepared by Lampert Architect, dated February 15, 2000, first revision date March 3, 2000 and second revision date March 24, 2000.
 - f. Fire lanes

The ("Required Improvements").
5. **PHASING PLAN.** The Site is permitted for development in two phases as follows:
 - a. Phase I - 31,600 square feet of multi-tenant office/warehouse space and Phase II footings and catch basins available to be constructed upon execution and fulfillment of all Permittee obligations under this Permit.
 - b. Phase II - 31,600 square feet of multi-tenant office/warehouse space is eligible for construction when a satisfactory storm sewer system is available to the Site as determined by the City Engineer.
6. **LIGHTING.** Any lighting installed on the structure or in the parking lot is subject to the prior approval of the City Engineer and shall be designed so as to deflect light away from public roads. Bulbs emitting in excess of 3,000 lumens (150 watts) shall be so directed that the bulb is not visible from off of the property where such light source is located
7. **FIRE LANES.** Fire lanes shall be maintained on the Site. The exact location of these items on the Site shall be as directed by the City's Fire Chief.
8. **BUILDING FACADE.** The Permittee agrees to construct all building facades of the same material as listed on the Exterior Elevations prepared by Lampert Architects, dated February 15, 2000, first revision dated March 3, 2000 and second revision date March 24, 2000.
9. **FINANCIAL ASSISTANCE.** The City shall be responsible to provide the financial assistance listed in Section 2.2 of the Contract for Private Development. The payment for the Site Improvements shall be made at the time the City Engineer, or his/her designee, has determined that 90% of the Site Improvements are completed. These payments will be made only if all property taxes, City fees and charges on the property are current.

10. **REQUIREMENT FOR BUILDING PERMIT.** No building permit for the Site will be issued until the Permittee has signed and returned this Development Permit. At the time of building permit issuance, all plan check fees, state surcharges, permit fees and sewer and water access charges shall be paid in full. No Certificate of Occupancy for occupancy for the structure will be issued until the City accepts the Required Improvements.
11. **IMPROVEMENT CONSTRUCTION SCHEDULE.** The Required Improvements shall be completed before December 31, 2000.
12. **ESCROW.** The City and Permittee herein agree that the standard forms of financial guarantee to ensure the installation of the Required Improvements are hereby waived. The Permittee herein agrees that the tax increment payments from the City to the Permittee described in Section 2.2 of this Contract shall serve as financial guarantee that the Required Improvements will be installed in accordance with City specifications and in a timely manner. In the event the Permittee fails to construct and install the Required Improvements as required herein, the City may complete the Required Improvements as required herein, the City may take the actions provided in the development agreement to cure the default.

H&P Development (West Radium Business Center), hereby acknowledges receipt of this permit and that they have reviewed the conditions of and have agreed that they will comply with the terms of this permit.

CITY OF RAMSEY, MINNESOTA

H&P DEVELOPMENT (WEST RADIIUM BUSINESS CENTER)

By [Signature]
Its: Mayor

By [Signature]
Its: Chief Manager

By [Signature]
Its: City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this 1st day of June, 2000, before me, a Notary Public, personally appeared Thomas G. Gamec and James E. Norman to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, ~~and the said instrument is the corporate seal of said Municipal Corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council and said Thomas G. Gamec and James E. Norman acknowledge said instrument to be the free act and deed of said Municipal Corporation.~~

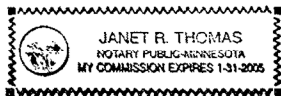
[Signature]
Notary Public



STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this 5th day of June, 2000, before me a Notary Public, personally appeared Mark A. Peck, the Chief Manager of H&P Development, a Minnesota Limited* under the laws of the State of Minnesota, on behalf of the Limited Liability Company.

*Liability Company



[Signature]
Notary Public

**ASSESSMENT AGREEMENT AND
CERTIFICATION OF ASSESSOR**

THIS AGREEMENT, made and entered into this 5th day of June, 2000, by and between the City of Ramsey, a Minnesota municipal corporation having its principal office at 15153 Nowthen Boulevard Northwest, Ramsey, Minnesota 55303 (City), and H & P Development L.L.C., a Minnesota Limited Liability Company, having his principal office at 13915 Radium Str. NW, Ste A, Ramsey, Minnesota 55303 (Developer):

WITNESSETH:

WHEREAS, the City is administering City Development District No. 1 created pursuant to M.S. §469.124 through §469.134; and

WHEREAS, the City is administering Tax Increment Financing District No. 2 created pursuant to M.S. §469.174 through §469.179; and

WHEREAS, the parties have entered into a Contract for Private Development (Agreement), dated June 5, 2000, regarding the development of certain real property located in Development District No. 1 and Tax Increment Financing District No. 2 within the City and legally described as Lots 1 and 1A, Block 1, WEST RADIUM BUSINESS CENTER FIRST ADDITION, Anoka County, Minnesota; and

WHEREAS, it is contemplated that pursuant to said Agreement, the Developer will construct the Minimum Improvements described in such Agreement and shall complete them prior to December 31, 2000; and

WHEREAS, the City and the Developer desire to establish minimum market values for said land and the Minimum Improvements to be constructed thereon (collectively, the Property), pursuant to M.S. §469.177, Subdivision 8; and

WHEREAS, the county assessor has reviewed the plans and specifications for the Minimum Improvements which will be constructed.

NOW THEREFORE, the parties do hereby agree as follows:

1. On January 2, 2001, the minimum total market value of the Property shall be One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000). Said minimum market value shall remain in effect for the term of this Agreement as described in paragraph 4 hereof.

2. Nothing in this Agreement shall limit the discretion of the county assessor or any other public official or body having the duty to determine the market value of the Property for ad valorem tax purposes to assign to the Property a market value in excess of the minimum market value specified in this Agreement.
3. Neither the preambles nor the provisions of this agreement are intended to modify nor shall they be construed as modifying, the terms of the Agreement.
4. This agreement shall remain in effect and inure to the benefit and be binding upon the successors and assigns of the parties through the Maturity Date as described in the Agreement.
5. As provided in M.S. §469.177, Subdivision 8, nothing contained herein shall be deemed to limit the right or opportunity of the Developer to challenge, through any legal means, that part of any valuation on the market value of the Property, which is in excess of the stipulated minimum market value contained in this agreement, provided, however, that the Developer may not institute or prosecute any challenge to the excess which, if successful, would also result in a reduction of the assessment below the stipulated value.
6. Capitalized terms not otherwise defined herein have the meanings given them in the Agreement.

CITY OF RAMSEY, MINNESOTA

By [Signature]
Its: Mayor

By [Signature]
Its: City Administrator

H & P DEVELOPMENT L.L.C.

By [Signature]
Its: Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this 1st day of June, 2000, before me, a Notary Public, personally appeared Thomas G. Gamec and James E. Norman to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and the said instrument was signed on behalf of said Municipal Corporation by authority of its City Council and said Thomas G. Gamec and

FORM OF CERTIFICATE OF COMPLETION

The undersigned hereby certifies that H & P Development L.L.C., has fully and completely complied with its obligations under Article III of that document entitled "Contract for Private Development," dated June 5, 2000, between the City of Ramsey, Minnesota and H & P Development L.L.C., recorded in the office of the Anoka County Recorder as Document Number _____, with respect to construction of the Minimum Improvements on the real estate described on Exhibit A attached hereto and incorporated herein ("Property") in accordance with the Construction Plans, and is released and forever discharged from its obligations under the above-referenced Article III.

In addition, that a Lien Agreement between H & P Development L.L.C. and the City of Ramsey dated June 5, 2000 and recorded in the office of the Anoka County Recorder as Document Number _____ is hereby terminated and the lien against the Property created thereby released and discharged.

CITY OF RAMSEY

Dated: _____

By _____
Its Mayor

By _____
Its City Administrator

STATE OF MINNESOTA)
)ss.
COUNTY OF ANOKA)

On this ___ day of _____, 20__ before me, a Notary Public, personally appeared ___
_____ and _____ to me personally known,
who, being each by me duly sworn did say that they are respectively the Mayor and City
Administrator of the City of Ramsey, the Municipal Corporation named in the foregoing
instrument, and the said instrument was signed on behalf of said Municipal Corporation by
authority of its City Council and said _____ and _____
_____ acknowledge said instrument to be the free act and deed of said
Municipal Corporation.

Notary Public

LIEN AGREEMENT

This Agreement, made and entered into this day of June 5, 2000, by and between the City of Ramsey, a Minnesota municipal corporation having its principal office at 15153 Nowthen Boulevard Northwest, Ramsey, Minnesota 55303 (City) and H & P Development L.L.C., a Minnesota Limited Liability Company having his principal office at 13915 Radium Str. NW, Ste A, Ramsey, Minnesota 55303 (Owner);

WITNESSETH:

WHEREAS, pursuant to M.S. §469.124 through §469.134, the City has created City Development District No. 1 (Development District) and, pursuant to M.S. §469.174 through §469.179, has established Tax Increment Financing District No. 2 (TIF District); and

WHEREAS, the City has adopted a development program (Program) and tax increment financing plan (TIF Plan) for the Development District and TIF District, which Program and TIF Plan call for the City to perform certain site improvements (Site Improvements) and for the Owner to construct certain permanent improvements (Minimum Improvements) on property located in the City and legally described as Lots 1 and 1A, Block 1, WEST RADIUM BUSINESS CENTER FIRST ADDITION (Property); and

WHEREAS, the nature of the Site Improvements to be performed by the City and of the Minimum Improvements to be constructed by the Owner on the Development Property are fully detailed in that certain Contract for Private Development dated June 5, 2000 between the City and the Owner ("Agreement"); and

WHEREAS, the City desires to have assurance that the Owner will complete the Minimum Improvements following installation of the Site Improvements by the City.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the City and the Owner, the parties do hereby agree as follows:

1. As security for the Site Improvements installed on the Property by the City, the Owner hereby grants and the City hereby does have a lien on the Development Property.
2. The lien is in the amount of Two Hundred Fifty-two Thousand Eight Hundred Six Dollars (\$252,806), which amount the parties agree represents the City's cost for providing the Site Improvements and the Property.
3. The lien amount shall be repaid to the City within 90 days of completion date of the Site Improvements by the City unless, within such 90 days, the Owner completes construction of the Minimum Improvements. Payment of the lien- amount shall be suspended during any time in which the Owner is making substantial progress on construction of the

Minimum Improvements. If the Owner fails to make substantial progress on the Minimum Improvements for a 90-day period following initiation of work, the lien amount may become immediately due and payable in full. Notwithstanding any other provision herein to the contrary, the lien amount may become immediately due and payable in full if the improvements are not completed by December 31, 2000, unless the said improvements are subject to Unavoidable Delays as defined in the Agreement.

4. The Lien shall automatically become null and void upon issuance by the City of a Certificate of Completion for the Minimum Improvements.
5. This agreement shall run with the Property and shall insure to the benefit of, and be binding upon, the parties hereto and their respective heirs, executors, representatives, successors and assigns.
6. In the event that the Owner or any of its successors or assigns fails or refuses to make the repayment required by this agreement, within the time established, the City may, with or without notice, foreclose said lien in the same manner as is provided by statute for action for the foreclosure of mortgages upon real property.

CITY OF RAMSEY, MINNESOTA

By [Signature]
Its: Mayor

By [Signature]
Its: City Administrator

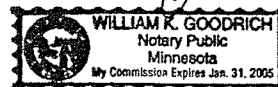
H & P DEVELOPMENT L.L.C.

By [Signature]
Its: Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this 1st day of June, 2000, before me, a Notary Public, personally appeared Thomas G. Gamec and James E. Norman to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and the said instrument was signed on behalf of said Municipal Corporation by authority of its City Council and said Thomas G. Gamec and James E. Norman acknowledge said instrument to be the free act and deed of said Municipal Corporation.

[Signature]
Notary Public



AGREEMENT TO PAY DEFICIENCIES

THIS AGREEMENT, made and entered as of this 5th day of June, 2000, by and between the City of Ramsey, a Minnesota municipal corporation, having its principal office at 15153 Nowthen Boulevard Northwest, Ramsey, Minnesota 55303 ("City"), and H & P Development L.L.C., a Minnesota Limited Liability Company having its principal office at 13915 Radium Str. NW, Ste A, Ramsey, Minnesota 55303 ("Developer").

WITNESSETH:

WHEREAS, the City and the Developer entered into an agreement entitled Contract for Private Development ("Agreement"), dated June 5, 2000, regarding development of certain real property situated in the City of Ramsey, legally described as Lots 1 and 1A, Block 1, WEST RADIUM BUSINESS CENTER FIRST ADDITION ("Property"); and

WHEREAS, the City has established Tax Increment Financing District No. 2 pursuant to M.S. §469.174 through §469.179, and has established Development District No. 1 pursuant to M.S. §469.124 through §469.134, which includes the Property; and

WHEREAS, the Agreement requires the City to construct certain improvements on or adjacent to the Property and requires the Developer to construct certain improvements ("Minimum Improvements") thereon, all as more fully described in the Agreement; and

WHEREAS, in order to finance the public costs related to construction of the Minimum Improvements on the Property, the City has agreed to use its tax increment financing funds or to otherwise fund such costs; and

WHEREAS, the Agreement requires the execution of this Agreement to Pay Deficiencies

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the City and the Developer, the parties do hereby agree as follows:

1. Except as qualified by Section 3 herein, if for any reason, the Net Tax Increment generated from the Property payable with the real estate taxes due in any calendar year commencing in 2002 and ending in 2012, is less than the required tax increment ("Required Increment") as defined in Section 2 herein, the City will notify the Developer of the difference ("Deficiency"), and will make written demand of the Developer for the payment thereof. The Developer must, within 30 days after receipt of written notice from the City, pay to the City the Deficiency. Payments will be based upon the normal real estate tax payment schedule of biannual payments.

TORRENS

Receipt # <u>44670/29.50</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>6/08/00, 13:15</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>1</u> of <u>4</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Recordability: <u>Jap</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Filing Fees: <u>29.50</u>	<input type="checkbox"/> Division <input type="checkbox"/> GAC
Well Certificate Received this Date: _____	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Refund Rect # _____	<input type="checkbox"/> Other <input checked="" type="checkbox"/> No Change
From <u>85525</u> A # of <u>0</u>	Notes: <u>NS 3" top</u>
Cert. # _____	Comp. Entry _____
Typed _____	Comp. Complete _____
Tract Updated: <u>1</u>	

BK 266 PG 85525 NO 85525

DOCUMENT NO. 354698.0 TORRENS
ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE
FOR RECORD ON **JUN 08 2000**
AT **1:15 PM** AND WAS DULY RECORDED.
FEES AND TAXES IN THE AMOUNT OF **\$29.50** PAID.

RECEIPT NO. 2000044670
EDWARD M. TRESKA
ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES
EIC
BY _____
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

ABSTRACT

Receipt # <u>44662/54.50</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>6-8 13:15</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>1</u> of <u>4</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Pins: <u>EC</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Recordability / Delqs: <u>EC</u>	<input type="checkbox"/> Division <input type="checkbox"/> GAC
Filing Fees: <u>54.50</u>	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Well Certificate Received this Date: _____ Anoka County Recorder	<input type="checkbox"/> Other <input checked="" type="checkbox"/> No Change
Notes: <u>40 pgs. NS 3" top</u>	

DOCUMENT NO. 1505053.0 ABSTRACT
ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE
FOR RECORD ON **JUN 08 2000**
AT **1:15 PM** AND WAS DULY RECORDED.
FEES AND TAXES IN THE AMOUNT OF **\$54.50** PAID.

RECEIPT NO. 2000044662
EDWARD M. TRESKA
ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES
EIC
BY _____
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES



FILE IN TORRENS

354698.0 TORRENS
REGISTERED ABSTRACTERS
2115 3RD AVE N
ANOKA, MN 55303

1932124

469230

A - 35 - 32 - 25 - 21 - 0034

**ASSIGNMENT AND ASSUMPTION
OF CONTRACT FOR PRIVATE DEVELOPMENT**

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACT FOR PRIVATE DEVELOPMENT (the "Assignment") is entered into as of March 19, 2004, by and among the CITY OF RAMSEY, a Minnesota municipal corporation, Anoka County, Minnesota (the "City"), H & P DEVELOPMENT L.L.C., a Minnesota Limited Liability Company ("Assignor"), and DIVERSE DEVELOPMENT COMPANY, LLP, a Minnesota Limited Liability Partnership ("Diverse") and GARY L. HUGEBACK ("Hugeback") (collectively "Assignees") The parties hereto agree as follows

RECITALS

WHEREAS, the City and the Assignor entered into a Contract for Private Development dated as of June 1, 2000 including a Deficiency Agreement and other related exhibits (collectively the "Development Agreement") regarding the development of certain real property located in a City TIF District The Development Agreement is recorded as Anoka County Recorder's Document number 1505053 and Anoka County Registrar of Titles document number 354698 , and

WHEREAS, the property of which is the subject of the Development Agreement is legally described as follows

Lots 1 and 1A, Block 1, WEST RADIUM BUSINESS PARK CENTER FIRST
ADDITION

(the "Development Property"), and

WHEREAS, the Deficiency Agreement provides that the Assignor will pay deficiencies to the City if net tax increment is less than the Required Increment, and

WHEREAS, the Assignor desires to transfer fee title for the Development Property o Assignees pursuant to a purchase agreement by and among Assignor and Assignees, and

WHEREAS, the Assignor desires to assign its rights and obligations under the Development Agreement to Assignees as fee owner of the Development Property, and Assignees agree to jointly and severally assume Assignor's rights and obligations under the Development Agreement, and

WHEREAS, such assignment is permitted, with the consent of the City, pursuant to Article VIII of the Development Agreement, and

WHEREAS, the Development Agreement may be amended pursuant to Section 11.4 of the Development Agreement

NOW THEREFORE, in consideration of the premises and the covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the terms described below

AGREEMENT

1 Recitals The above Recitals are hereby agreed to in full and are incorporated herein by this reference. Capitalized terms used herein and not defined herein shall have the respective meanings set forth in the Development Agreement

2 Representations and Warranties Diverse represents and warrants to the City that it is a Minnesota Limited Liability Partnership and in good standing therein, and is qualified to do business in the State of Minnesota

3 Assignment and Assumption

a The Assignor hereby assigns to the Assignees, and the Assignees hereby assume from the Assignor, all right, title and interest and obligations in and to the Development Agreement

b The Assignees jointly and severally promise and agree (a) to assume and pay the indebtedness evidenced by the Development Agreement at the times, and in the manner and in all respects as therein provided, (b) to perform each and all of the obligations set forth in the Development Agreement at the times, in the manner and in all respects as therein provided, and (c) to be bound by each and all of the terms of the Development Agreement as if each of them were originally made, executed and delivered by the Assignee.

4 Conditions to Effectiveness of this Agreement and Assumption This Assignment and Assumption Agreement shall be effective upon execution and consent of the City

5 Governing Law This Agreement shall be governed by the laws of the State of Minnesota

6 Severability In case any one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity,

TORRENS

Receipt # <u>81444/A 20.00</u>	<input type="checkbox"/> Tax Lien/Release
Date/Time <u>6-7-04 11:30</u>	<input type="checkbox"/> Transfer
Doc Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Division
Recordability <u>EC</u>	<input type="checkbox"/> Status
Filing Fees <u>\$ 20.00</u>	<input type="checkbox"/> New legal Description
Well Cert Rec'd	<input type="checkbox"/> GAC
	<input type="checkbox"/> Deferred Specials
	<input checked="" type="checkbox"/> No Change
<input type="checkbox"/> Certified Copy/ <input type="checkbox"/> Non-standard Document <input type="checkbox"/> <input checked="" type="checkbox"/> From Certificate <u>102007 A</u> # New Certificates <u>EC</u>	
BK <u>266</u>	Page/Cert <u>102007</u>

DOCUMENT NO

ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON JUN 14 2004 AND WAS DULY RECORDED AT 4:30 PM FEES AND TAXES IN THE AMOUNT OF \$20 00 PAID

RECEIPT NO 2004081444

MAUREEN J DEVINE
ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

BY EIC
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

ABSTRACT

Receipt # <u>81445/A 20.00</u>	<input type="checkbox"/> Incorrect/No Reference #
Date/Time <u>6-7-04 11:30</u>	<input type="checkbox"/> Non-standard Document
Document Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Certified Copy/
PINs <u>EC</u>	
Recordability <u>EC</u>	
Filing Fees <u>\$ 20.00</u>	<input type="checkbox"/> Tax Lien/Release
Copy/Additional Pg Fees \$ _____	<input type="checkbox"/> Transfer
Well Cert Fees \$ _____	<input type="checkbox"/> Division
	<input type="checkbox"/> Status
	<input type="checkbox"/> New legal Description
<input type="checkbox"/> Incomplete Form	<input type="checkbox"/> GAC
<input type="checkbox"/> Missing Attachment	<input type="checkbox"/> Deferred Specials
<input type="checkbox"/> No Legal Description	<input checked="" type="checkbox"/> No Change
<input type="checkbox"/> Non-existent Legal Description	
<input type="checkbox"/> Part(s) illegible	

DOCUMENT NO

ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON JUN 14 2004 AND WAS DULY RECORDED AT 4:30 PM FEES AND TAXES IN THE AMOUNT OF \$20 00 PAID

RECEIPT NO 2004081445

MAUREEN J DEVINE
ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

BY EIC
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

469-350 0 TORRENS
BARNA COZY & STELLIN
SUITE 400
200 COUN RAPIDS BLVD
EDEN PAPER CO. MN 55433

FILE IN TORRENS