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# Final
# Five-Year Review Report

## Fourth Five-Year Review Report

**for**

**Waite Park Wells Site**
**Including the Electric Machinery OU 1/Site**
**And the Burlington Northern Car Shop Waite Park OU 2/Site**

**City of Waite Park, Stearns County, Minnesota**

**May 2010**

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# Five-Year Review Report

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# List of Acronyms

ACM .....Asbestos-Containing Material
AMR .....Annual Monitoring Report
ARAR .....Applicable or Relevant and Appropriate Requirement
BN .....Burlington Northern Railway Company
CERCLA...Comprehensive Environmental Response, Compensation, and Liability Act
CFR .....Code of Federal Regulations
Ch. .....Chapter
City.....City of Waite Park
COC .....Contaminant of Concern
cVOC .....Chlorinated Volatile Organic Compound
CWA .....Clean Water Act
DCA .....1,1-Dichloroethane
DCE.....1,2-Dichloroethene
DNR .....Department of Natural Resources
DWSMA ...Drinking Water Supply Management Area
EM.....Electric Machinery Manufacturing Company
EPA .....United States Environmental Protection Agency
ESD .....Explanation of Significant Difference
FS .....Feasibility Study
HBV .....Health Based Value
HRL.....Health Risk Limit
IC.....Institutional Control
IRIS .....Integrated Risk Information System
MCES.....Metropolitan Council Environmental Services
MCL.....Maximum Contaminant Level
MCLG.....Maximum Contaminant Level Goal
MDH .....Minnesota Department of Health
MERLA.....Minnesota Environmental Response and Liability Act, state Superfund law
mg/kg .....milligrams per kilogram
Minn. .....Minnesota
Minn. Stat..Minnesota Statute
MPCA .....Minnesota Pollution Control Agency
NCP.....National Oil and Hazardous Substances Pollution Contingency Plan
NPDES.....National Pollutant Discharge Elimination System
NPL.....National Priorities List
O&M .....Operation & Maintenance
OU.....Operable Unit
PAH.....Polyaromatic Hydrocarbon
PCB .....Polychlorinated Biphenyl
PCE .....Tetrachloroethylene/ Perchloroethylene/Tetrachloroethene
PLP.....Permanent List of Priorities
PVC.....Polyvinyl Chloride
RA .....Remedial Action/Response Action
RAGS.....Risk Assessment Guidance for Superfund
RAL.....Recommended Allowable Limit
RAO .....Remedial Action Objective
RCRA.....Resource Conservation and Recovery Act
RD .....Remedial Design
RD/RA .....Remedial Design/Response Action
RFRA .....Request for Response Action
RI/FS .....Remedial Investigation/Feasibility Study
ROD .....Record of Decision
RP.....Responsible Party
SARA.....Superfund Amendments and Reauthorization Act of 1986
SEH .....Short Elliot Hendrickson, Inc.

SVE.....Soil Vapor Extraction
TBC.....To Be Considered
TCA.....1,1,1-Trichloroethane

TCE.....Trichloroethylene / Trichloroethene
µg/L.....micrograms per Liter
UU/UE .....Unlimited Use and Unrestricted Exposure
UECA.....Uniform Environmental Covenants Act
VIC.....Voluntary Investigation and Cleanup
VOC .....Volatile Organic Compound
WasteLAN EPA national database for planning, tracking and describing sites, activities
WHPA.....Wellhead Protection Area
WPW.....City of Waite Park Water Supply Wells (Waite Park Wells)

# Executive Summary

The Waite Park Wells (WPW) Site is a Minnesota Pollution Control Agency (MPCA)-lead Site in the City of Waite Park (City), Minnesota and consists of the wellfield area in the City and adjacent source properties formerly or presently owned by the Electric Machinery Manufacturing Company (EM) and the Burlington Northern Railroad Company (BN). MPCA has designated the EM property as the EM Site Operable Unit 1 (OU1) and the BN property as the BN Site Operable Unit 2 (OU2).

Remedial components for the City water supply wells (WPW) were identified under the 1989 EM Record of Decision (ROD); therefore, a separate ROD was not executed for WPW. The portion of the selected remedy for WPW consists of treatment of the groundwater using a packed aeration tower (air stripper) prior to distribution to the municipal water supply system for consumption. The components of the selected remedy for the EM property include groundwater removal, treatment, and discharge to the Sauk River.

The selected remedy in the 1994 ROD for the BN property includes the following components:

- Excavation of the lagoon waste, sandblast sands, and the dirt floor of the paint building on the property now owned by Waite Park Manufacturing, Inc.; incorporation of the previously consolidated sandblast sands with the waste; excavation of the contaminated waste until all visible oily soils and sandblast sands are removed; sampling from the sidewalls and bottom of the excavation to meet the remediation levels; removal and treatment of any visible oil floating on the groundwater; and backfilling with clean soil, compaction, topsoil, and seed;
- Solidification/stabilization of the waste to reduce the concentration of contaminants to below hazardous levels and to minimize the mobility of the contaminants in the waste material, and treatability studies to determine the most appropriate method of the solidification/stabilization;
- Placement of the treated waste in a containment facility constructed on-site pursuant to Minnesota (Minn.) Rules Chapter (Ch.) 7035 part (pt.) 2815, with a liner system, leachate collection and detection, cover system, groundwater monitoring and gas collection; and a contingency action plan and post-closure requirements conducted pursuant to Minn. Rules Ch. 7035 pt. 2615 and 2645;
- Restrictions placed on any area that is not remediated to unrestricted land use remediation levels and on property containing the containment facility;
- Groundwater monitoring network and groundwater monitoring plan; and
- Area A remediation to unrestricted land use levels, and Areas B through H remediation to commercial/industrial land use levels.

A 1998 MPCA Explanation of Significant Difference (ESD) for the BN property indicated stockpiled soil from post-containment cell excavations would be stabilized and transported to an off-site landfill for disposal with solidification as an option. Treated soil must meet the soil cleanup levels in Table 4 of the ROD and off-site landfill waste acceptance criteria. A risk-based

approach would be used to determine whether contamination may remain in place as a part of an integrated remedy, with the use of engineering and Institutional Controls (ICs) as necessary to assure that the remedy remains protective of public health and the environment. The integrated remedy must be developed in accordance with the needs of all affected parties. MPCA approval or conditional approval of proposed actions or contingency plans is required. Institutional control language must include Site conditions, use or activity restrictions, notification of the presence of residual contamination and accompanying controls, and/or assurance that long-term mitigation measures or monitoring requirements (e.g. engineering controls) are carried out and maintained. An example is that Area A requires restrictions on excavation activities due to remaining impacted soil and debris at a depth greater than four feet.

The trigger for this Five-Year Review is the completion date of the third Five-Year Review Report of June 1, 2005.

The assessment of this Five-Year Review found that the remedies were constructed according to the requirements in the RODs and ESD. The groundwater remedy and the containment cell remedy for WPW and the BN OU2 Site, respectively, are functioning as intended and are currently protective of human health and the environment in the short term.

Long-term protectiveness requires maintenance of the remedy and compliance with the ICs. Compliance with ICs will be accomplished by ensuring effective ICs are in-place and by planning for long-term stewardship which includes maintaining, monitoring and enforcing effective ICs as well as maintaining the Site remedy components. A plan for long-term stewardship of the Site is needed to assure effective ICs are maintained, monitored and enforced. Upon request of MPCA, the RPs will submit IC Plans to plan for additional IC activities.

A protectiveness determination of the remedy at the EM OU1 Site cannot be made at this time until further information is obtained. Further information will be obtained by taking the following action: complete a Tier 3 Vapor Intrusion Assessment including a building and air quality survey, and take Remedial Action (RA) appropriate to the results.

The Site-wide protectiveness determination is deferred because further information needs to be obtained at the EM OU1 Site, as described above. This information gathering and potential RA are anticipated to take two years, at which time a protectiveness determination will be made in an addendum to this report. In addition to the above RA as a component of long-term protectiveness, long-term protectiveness will be achieved at the WPW Site when

- groundwater cleanup goals have been achieved;
- the Site contaminated soils are properly addressed;
- the remaining ICs are put in place; and
- IC Plans have been developed, and recommendations in the plans have been implemented.

# Five-Year Review Summary Form

| SITE IDENTIFICATION | | |
|---|---|---|
| **Site name *(from WasteLAN)*: Waite Park Wells** | | |
| **EPA ID *(from WasteLAN)*: MND981002249** | | |
| **Region: 5** | **State: MN** | **City/County: City of Waite Park/Stearns County** |
| **SITE STATUS** | | |
| **NPL status: Final** | | |
| **Remediation status** (choose all that apply): **Operating** | | |
| **Multiple OUs? Yes** | **Construction completion date: 09/21/1999** | |
| **Has site been put into reuse? Yes** | | |
| **REVIEW STATUS** | | |
| **Lead agency: State** | | |
| **Author name: Wayne Sarappo** | | |
| **Author title: Project Leader** | **Author affiliation: Minnesota Pollution Control Agency** | |
| **Review period:** October 2009 through May 2010** | | |
| **Date(s) of site inspection: 10/28/2009** | | |
| **Type of review: Post-SARA (Statutory)** | | |
| **Review number: 4 (Fourth)** | | |
| **Triggering action: Previous Five-Year Review Report** | | |
| **Triggering action date *(from WasteLAN)*: 06/01/2005** | | |
| **Due date *(five years after triggering action date)*: 06/01/2010** | | |

* ["OU" refers to operable unit.]
** [Review period corresponds to the actual start and end dates of the Five-Year Review in WasteLAN.]

## Five-Year Review Summary Form, cont'd.

**Issues:**

**WPW**

1. Residual soil contamination on the City-owned property.

- During the construction of the new City water treatment plant in 2001 and Waite Avenue North in 2009, impacted or potentially impacted soil from the former BN Site was excavated and placed in containment cells or berms in at least three separate areas. This was reportedly completed under the MPCA Voluntary Investigation and Cleanup (VIC) program. Two of these areas do not appear to be properly maintained.
- Former Area A. Two stockpiled soil areas were identified in this area possibly containing historical BN Site debris that could contain Contaminants of Concern (COCs).

2. There are no measures in place to monitor effectiveness of the ICs including restrictive covenants as well as the long-term stewardship of the properties.

**EM OU1**

1. There are no measures in place to monitor effectiveness of ICs including restrictive covenants as well as the long-term stewardship of the properties.

2. Residual soil contamination remains on the EM OU1 Site.

3. Results of the vapor intrusion investigation indicated that further work needs to be completed for the vapor intrusion pathway including a building survey and air quality survey.

**BN OU2**

1. Residual soil contamination remains on the BN OU2 Site.

2. There are no measures in place to monitor effectiveness of the ICs including restrictive covenants as well as the long-term stewardship of the properties.

## Five-Year Review Summary Form, cont'd.

**Recommendations and Follow-up Actions:**

**WPW**

1. Determine and implement a protective, long-term response action for site contaminated soils, including consideration of required ICs.

- Determine the nature of, and maintenance and monitoring requirements for containment cells/berms created by the City. Recommend instituting a monitoring and maintenance plan.
- Determine the nature of the stockpiles in Former Area A. Recommend removal and disposal of stockpiled material with historical debris.

2. Develop and implement an IC Plan for the maintenance, monitoring, and enforcement of ICs designed for the properties owned and maintained by the City to assure the remedy remains protective of human health and the environment and long-term stewardship procedures are established.

**EM OU1**

1. Develop and implement an IC Plan to monitor the effectiveness of ICs and to assure the remedy remains protective of human health and the environment and long-term stewardship procedures are established.

2. Determine and implement a protective, long-term response action for site contaminated soils, including consideration of required ICs.

3. Complete an MPCA Tier 3 vapor intrusion assessment as recommended in the vapor intrusion investigation.

**BN OU2**

1. Determine and implement a protective, long-term response action for site contaminated soils, including consideration of required ICs.

2. Develop and implement an IC Plan for the maintenance, monitoring, and enforcement of ICs to assure the remedy remains protective of human health and the environment and long-term stewardship procedures are established.

## Five-Year Review Summary Form, cont'd.

**Protectiveness Statement(s):**

The groundwater remedy and the containment cell remedy for the WPW and the BN OU2 Site, respectively, are functioning as intended and are currently protective of human health and the environment in the short term.

Long-term protectiveness requires maintenance of the remedy and compliance with the ICs. Compliance with ICs will be accomplished by ensuring effective ICs are in-place and by planning for long-term stewardship which includes maintaining, monitoring and enforcing effective ICs as well as maintaining the Site remedy components. A plan for long-term stewardship of the Site is needed to assure effective ICs are maintained, monitored and enforced. Upon request of MPCA, the RPs will submit IC Plans to plan for additional IC activities.

A protectiveness determination of the remedy at the EM OU1 Site cannot be made at this time until further information is obtained. Further information will be obtained by taking the following action: Complete a Tier 3 Vapor Intrusion Assessment including a building and air quality survey, and take RAs appropriate to the results.

The Site-wide protectiveness determination is deferred because further information needs to be obtained at the EM OU1 Site, as described above. This information gathering and potential RA are anticipated to take two years, at which time a protectiveness determination will be made in an addendum to this report. In addition to the above RA as a component of long-term protectiveness, long-term protectiveness will be achieved at the WPW Site when groundwater cleanup goals have been achieved; the Site contaminated soils are properly addressed; the remaining ICs are put in place; and IC Plans have been developed, and the recommendations in the plans have been implemented.

**Other Comments:**

# Five-Year Review Report

## I. INTRODUCTION

The Waite Park Wells (WPW) Site is listed on the National Priorities List (NPL) and consists of the well field area in the City of Waite Park (City) and adjacent source properties formerly or presently owned by the Electric Machinery (EM) Manufacturing Company and the Burlington Northern (BN) Railway Company. These properties are Operable Unit (OU)1 and OU2, respectively, and each had several source areas with releases and threats of release. The locations are shown on Site Maps included in **Attachment A**.

### I.1. The Purpose of the Review

The purpose of the Five-Year Review is to determine whether the remedy at the Site is protective of human health and the environment. The methods, findings and conclusions of reviews are documented in Five-Year Review reports. In addition, Five-Year Review reports identify issues during the review, if any, and identify recommendations to address them.

The Minnesota Pollution Control Agency (MPCA) is preparing this Five-Year Review report pursuant to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §121 and the National Contingency Plan (NCP). CERCLA Section §121 states:

> *If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after the initiation of such remedial action to ensure that human health and the environment are being protected by the remedial action being implemented. In addition, if upon such review it is the judgment of the President that action is appropriate at such site in accordance with section [104] or [106], the President shall take or require such action. The President shall report to the Congress a list of facilities for which such review is required, the results of all such reviews, and any actions taken as a result of such actions.*

The MPCA interpreted this requirement further in the NCP; 40 Code of Federal Regulations (CFR) §300.430(f)(4)(ii) states:

> *If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after initiation of the selected remedial action.*

### I.2. Who Conducted the Five-Year Review

The MPCA staff has completed a Five-Year Review of the Remedial Actions (RAs) conducted at the Site. This Five-Year Review was conducted from October 2009 through April 2010. This report documents the results of the review including whether the RAs remain protective of public health, welfare, and the environment. The MPCA was assisted by Bay West, Inc., under the Superfund, Petroleum, and Agriculture Professional Environmental Multi-Site Contract, in completion of this review.

### I.3. Other Review Characteristics

This review focuses on the protectiveness of the Site RAs 20 years from the time the RAs commenced in 1989. This is the fourth Five-Year Review completed by the MPCA staff. The MPCA staff completed the first Five-Year Review on March 30, 1995, the second Five-Year Review on February 14, 2000, and the third Five-Year Review on June 1, 2005.

The triggering actions for this Five-Year Review are that hazardous substances, pollutants, or contaminants have been left on-site above levels that allow for Unlimited Use and Unrestricted Exposure (UU/UE) , and the completion date of the third Five-Year Review, as shown in the United States Environmental Protection Agency's (EPA's) WasteLAN database: June 1, 2005.

## II. SITE CHRONOLOGY

**Table 1** provides a chronology of Site events. This chronology of Site events was updated based on the list of documents reviewed, shown in **Attachment B**.

| Table 1: Chronology of Site Events | |
|---|---|
| 1969-1977 | Waste solvents were discharged into a sump and unregulated waste disposal area at the EM Site. |
| 1950-1970 | Waste oil, paint, solvents and other wastes were released on the BN Site. |
| 12/1984 | Volatile Organic Compounds (VOCs) were detected in the Waite Park water supply wells. |
| 2/4/1985 | Emergency connection was implemented between the cities of Waite Park and St. Cloud to provide drinking water to the City of Waite Park. |
| 10/22/1985 | MPCA issued a Request for Response Action (RFRA) to BN. |
| 3/4/1986 | Remedy was selected for the Waite Park municipal wells. |
| 3/25/1986 | MPCA issued an RFRA to Brown Boveri & Company Ltd. and Cooper Industries, responsible parties (RPs) associated with the EM Site. |
| 4/30/1986 | EM Site was listed on the Permanent List of Priorities (PLP). |
| 4/30/1986 | WPW Site was listed on the PLP. |
| 6/10/1986 | WPW Site was listed on the NPL with EM and BN Sites as OUs. |
| 9/23/1986 | MPCA issued a RFRA to Dresser Industries, Inc. and the EM as additional RPs associated with the EM Site. |
| 9/30/1986 | WPW Remedial Action (RA) report recommending an air stripper was approved. |
| 2/19/1988 | Groundwater treatment system was installed to treat the municipal water supply, and the WPW wells were placed back into service. |
| 6/1/1988 | On-site construction began at EM Site. |
| 9/1988 | Groundwater pumping and treatment began at the EM Site. |
| 1/5/1989 | Record of Decision (ROD) was issued for the EM Site. |
| 1/19/1989 | Remedial design (RD) was completed for EM Site. |
| 12/30/1989 | BN Site was listed on the PLP. |
| 4/1992 | Minnesota Department of Health (MDH) advised MPCA of children's imminent health hazard due to lead. |
| 4/2/1992 | MPCA required Emergency RA for Site posting and consolidation of contaminated sand. |
| 4/2/1992 | MPCA approved Interim RA proposal required in RFRA. |
| 3/1993 | MDH issued a Public Health Assessment for the Site. |
| 5/4/1994 | MPCA approved the Feasibility Study (FS) with modifications. |
| 7/14/1994 | ROD was issued for the BN Site. |
| 1995 | BN completed RA that included treatment of contaminated soil and construction of an |

| Table 1: Chronology of Site Events | |
|---|---|
| | on-site containment cell. |
| 3/1995 | First Five-Year Review was completed. |
| 1988 to 4/2001 | Until the test shutdown of the system, groundwater was pumped at the pumpout wells at the EM Site and air-stripped before discharge to the Sauk River. |
| 8/1998 | An Explanation of Significant Difference (ESD) was issued for the BN Site. |
| 9/21/1999 | Preliminary Close Out Report for the NPL WPW Site was issued. |
| 1999 | Soil contaminated with cosmoline and VOCs was excavated near location of monitoring well EM-35S. |
| 11/1999-4/2001 | A dewatering sump was installed at the EM soil excavation location with discharge to the air stripper and operated until the test shutdown of the groundwater remediation system. |
| 1999-2002 | Lead-contaminated soil from the BN Site was excavated, stabilized, and disposed of at an off-site landfill. |
| 2/2000 | Second Five-Year Review for the NPL WPW Site was completed. |
| 2000 | Soil Vapor Extraction (SVE) system installed and operated near monitoring well EM-9S. |
| 2001 | City prepared and implemented a Wellhead Protection Plan. |
| 5/2002 | Municipal Well 5 and the New City water supply treatment building were brought into service. |
| 7/2/2002 | BN Site was delisted from the PLP with all RAs completed. |
| 6/1/2005 | Third Five-Year Review for the NPL WPW Site was completed. |
| 11/20/2008 | EM completed a soil vapor and groundwater investigation. |
| Ongoing | BN conducts containment cell Operation and Maintenance (O&M), including groundwater monitoring and submittal of Annual Monitoring Reports (AMRs). |
| Ongoing | EM Site groundwater monitoring and submittal of AMRs occurs. |
| Ongoing | WPW Site treatment, monitoring, and submittal of results for reporting in the EM AMRs occurs. |

## III. BACKGROUND

The WPW Site is listed on the federal NPL. The Site consists of the well field area in the City and two adjacent source properties identified as EM OU1 and BN OU2. These two source areas are OUs of the federal WPW Site. The Responsible Parties (RPs) for the EM OU1 Site are the Electric Machinery Manufacturing Company, Cooper Industries. Inc., Brown Boveri & Company Ltd. and Dresser Industries, Inc. The Burlington Northern and Santa Fe Railway Company (current company name) is the RP for the BN OU2 Site. The EPA has deferred enforcement to the MPCA under the Enforcement Permanent List of Priorities (PLP): WPW Site, EM OU1 Site, and BN OU2 Site (**Attachment A, Figure 1**).

### III.1. Physical Characteristics

The WPW Site is located in the cities of Waite Park and St. Cloud in Stearns County, Minnesota, in Sections 8 and 9, T124N, R28W. The Site is flat sand plain with glacial deposits overlying granite that outcrops near the Sauk River at the west boundary. The BN containment cell is the highest point in the area. The EM OU1 Site, a 45-acre parcel of land, is directly north of the BN OU2 Site and is within the City of St. Cloud. The BN OU1 Site, a 202-acre parcel of land, is within the City of Waite Park. The City of Waite Park has a population of 6,796 (July 2008). The City of St. Cloud has a population of 66,948 (July 2008).

## III.2. Land and Resource Use

At the time of discovery of contamination, two City water supply wells were located on the BN OU2 Site. Both properties were used for industrial purposes. Except for the park on the west, most of the Site has vegetation typical of commercial areas. The Sauk River is on the western boundary and is the most environmentally sensitive feature of the Site. However, historical groundwater monitoring indicates that contaminated groundwater plumes have not migrated to the Sauk River. Additional details on the land use of each area are summarized below. The future uses of these properties are not anticipated to change significantly.

### III.2.1. Waite Park Wells

The best groundwater production area in the City is located at the BN OU2 Site, so this well field continues to be developed over time. Currently, the City well field consists of four water supply wells (Wells 1, 3, 4, and 5). The City well field and water treatment building are located within the boundaries of the BN Site and approximately 1/3 mile to the southeast of the EM Site, and along the east side of the currently owned BN property. In 2002, the City completed the construction of a new water treatment plant. In addition, in 2009, the City completed the construction of Waite Avenue North, connecting 3rd Street North to 8th Street North. The access road to the water treatment plant is now off of Waite Avenue North. As part of the construction of the new treatment plant and Waite Avenue North, several containment cells/berms were also constructed to contain impacted or potentially impacted soil from former BN operations.

In 2001, a "Wellhead Protection Area and Drinking Water Supply Management Area Delineations and Vulnerability Assessments" report was prepared by Short Elliott Hendrickson, Inc. (SEH) for the City. In the report, Wellhead Protection Areas (WHPAs) and Drinking Water Supply Management Areas (DWSMAs) were delineated by SEH for all four existing municipal wells. The MDH defines the WHPA and the capture zone for a well. Using groundwater modeling software, SEH calculated one-year, five-year and ten-year WHPAs for the Waite Park municipal wells. Data from the report indicate that the EM Site is located within the one-year, five-year, and ten-year WHPAs for Waite Park municipal wells 1, 3, 4 and 5. The entire EM Site is also situated within the DWSMA for the one-year WHPA. These data indicate that the contaminant plume at the EM Site is being captured by the Waite Park municipal wells.

### III.2.2. EM OU1

The 1989 EM Site ROD indicated that the use of the land surrounding the EM Site was light industrial and warehousing. Currently, the EM Site is used for industrial purposes and is surrounded primarily by industrial and commercial properties.

### III.2.3. BN OU2

In 1986, BN deeded a majority of the land to the City, including the land with the municipal wells and treatment building. The 1995 BN Site ROD stated that the area in and around BN included a mixture of light industrial, commercial, water utility, recreational and residential uses. The easternmost portion of the City property is vacant land, with Waite Avenue North and a highway overpass further to the east. The City developed a ball park on the portion of the BN OUs Site located between 10th Avenue and the Sauk River (Area A). The City has sold some of the property, which is used for industrial and commercial purposes. A portion of the property sold was developed as the West River Business Park. BN currently owns 44 acres located on the eastern half of the Site.

The property currently owned by BN is located east of 5th Street and includes the soil containment cell, several buildings which are leased to a third party, and vacant land. There are commercial properties and residences to the south of the BN OU2 Site, along the south side of 3rd Street, and residential areas located north and south of the ball park.

## III.3. History of Contamination

The City wells were drilled in 1963 and 1974. In 1984, the MDH began a program of requiring cities to analyze water supplies, and in December 1984, VOCs were found in the City well water.

From 1969 to 1977, EM owned and operated a gas turbine and electric generator manufacturing facility in St. Cloud. Waste solvents generated at the facility were discharged into the soil and groundwater from a paint booth sump in the building at the EM Site. Waste solvent was also released at an unregulated pit in the southwest portion of the EM Site.

BN began operations in Waite Park in 1894. The operation included construction and repair of railroad freight, tank, and hopper cars in a car shop. From 1950 to 1970, approximately 10,000 gallons annually of waste oil, paint waste, and solvents were disposed of at the railroad yard by landfilling and/or evaporation.

## III.4. Initial Response and Investigations

### III.4.1. Waite Park Wells

In December 1984, VOCs including trichloroethene (TCE), tetrachloroethene (PCE) and 1,1-dichloroethane (DCA) were detected in the City water supply wells. On January 28, 1985, the MDH informed MPCA staff that the City was being advised to discontinue use of its water supply as soon as possible due to unacceptable levels of hazardous substances in the drinking water. On the same day, the MPCA issued a Determination of Emergency, allowing access to State Superfund funding under the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes (Minn. Stat.) Chapter (Ch.) 115B, to provide City residents with a short-term safe drinking water supply and to undertake an investigation and Feasibility Study (FS) to determine the appropriate long-term drinking water alternative. Nearby St. Cloud businesses were provided safe drinking water until an emergency connection between the Waite Park and the St. Cloud water systems was completed on February 4, 1985. St. Cloud was provided safe drinking water until the long-term water supply system was constructed in Waite Park. An FS was completed in March 1986 to determine the appropriate long-term drinking water alternative, and a remedy was selected. During September 1986, MPCA approved an RA which consisted of installation of a packed tower aeration system (air stripper) to remove the VOC contaminants from the water supply prior to consumption. BN and EM Site RPs jointly funded and implemented the water treatment system. The City water supply wells were placed back into service in February 1988. The City took over O&M of the treatment system after construction.

On June 10, 1986, the WPW Site was placed on the EPA's NPL with a Hazard Ranking System score of 32. The WPW, BN and EM Sites are listed separately on the state of Minnesota's PLP, each with a score of 38.

On October 22, 1985, the MPCA issued a Request for Response Action (RFRA) to BN, citing the BN Site as a source of contamination to the City's water wells. On March 25, 1986 and September 26, 1986, the MPCA issued RFRAs to Brown Boveri & Company Ltd., Cooper Industries, Inc., Dresser Industries, Inc., and Electric Machinery Manufacturing for the EM Site. The RFRAs also cited the EM Site as a source of contamination to the City's wells. The RFRAs requested both BN and the RPs for the EM Site conduct a Remedial Investigation/Feasibility Study (RI/FS) and implement a Remedial Design/ Response Action (RD/RA) plan for a long-term water supply treatment system for the City. The RFRAs also requested that BN and the EM Site RPs conduct an RI/FS and implement an RD/RA to address the contamination at their respective Sites.

### III.4.2. EM OU1

The initial groundwater assessment determined a layer of glacial till separates an upper sand and gravel unit from a lower sand and gravel unit across portions of the EM Site. Both units are water-bearing aquifers. The glacial till forms the base of the upper aquifer and generally acts as an aquitard, which limits flow of groundwater and contaminants into the underlying aquifer. In the southeast part of the EM Site, the glacial till is absent, and the upper and lower aquifers are in contact (a window). This allows contaminants that were released to the upper aquifer to migrate from the upper to the lower aquifer. Pumping of the municipal wells influences groundwater flow in both the upper and the lower aquifers due to the connection between the two aquifers, resulting in flow on the EM Site to the south and east towards the window; then, flow is east in the lower aquifer toward the municipal wells. On the southern side of the subject properties, groundwater in the upper aquifer generally flows north under non-pumping conditions, towards the EM Site and the area where the glacial till is absent. Groundwater in the lower aquifer under non-pumping conditions flows northeast.

Laboratory analysis detected several VOCs in water samples collected from the City water supply system during the initial assessment, including TCE, PCE and DCA. Analysis of the groundwater samples collected during the RI for the EM Site identified several VOCs in the shallow and deep aquifers both on and off the EM Site. The contaminant with the highest on-site concentration, as presented in the ROD for the EM Site, was PCE; although, TCE, 1,1,1-trichloroethane (TCA) and cis- and trans-1,2-dichloroethene (DCE) were also present at significant concentrations. PCE was detected on-site in the shallow aquifer at concentrations as high as 34,000 micrograms per liter (µg/L). The deeper aquifer was less contaminated with PCE concentrations of approximately 600 µg/L detected in both on- and off-site wells.

A ROD was issued for the EM Site on January 5, 1989, which presented the selected remedy: groundwater pumping, treatment, and discharge to the storm sewer. RAs for WPW were identified under the ROD for the EM Site; thus, a separate ROD was not executed for WPW.

### III.4.3. BN OU2

The BN Site was divided into three OUs. Although the BN OUs are presented here for completeness, they are not used in this report. OU1 consisted of the waste disposal lagoons, OU2 consisted of the impacted sandblast soil, and OU3 addressed the shallow groundwater contamination. The Site was further divided into eight sections, lettered A through H (**Attachment A**). A ROD was issued for the BN Site on July 14, 1994, which presented the

selected remedy for three OUs. The initial assessment findings and RAs for each OU are described below. The final RAs are described in Section IV:

**OU 1 Waste Disposal Lagoons**. Three lagoons containing approximately 17,500 cubic yards of lubrication oil and grease, oils containing polychlorinated biphenyls (PCBs), cooking oil, solvents and paints existed in Area A. Maximum concentrations of substances detected in samples collected from the lagoons include 570 milligrams per kilogram (mg/kg) of PCBs, 42 mg/kg of arsenic, 4.9 mg/kg of cadmium, and 120,000 mg/kg of lead.

**OU 2 Impacted Sandblast Soil**. Paint containing high concentrations of lead was stripped from railroad cars at a sandblasting station located in Area H. Waste sandblast sand was spread throughout the Site. In 1992, BN initiated RAs based on a concern for children playing on the Site. Approximately 7,000 cubic yards of sandblast sands were excavated in Area H. The soil was stockpiled on-site, covered with plastic, and fenced. A fence was also placed around additional sandblast sands in Area A. Analysis of the sandblast sands showed a maximum concentration of 17,000 mg/kg of lead, 18 mg/kg of arsenic and 2.8 mg/kg of cadmium.

**OU 3 Shallow Groundwater.** Shallow groundwater contamination including chlorinated VOCs, acetone, methylene chloride, benzene, toluene, xylenes, oil and grease and methyl ethyl ketone, was noted at several areas, resulting in continued groundwater monitoring.

### III.5. Basis for Taking Action

Hazardous substances have been detected in the soil and groundwater above levels indicating excess risk of exposure to humans through direct soil and groundwater contact (i.e., ingestion and dermal contact) and drinking water. In addition to human health risks, the risks to the environment were evaluated and found that the soils pathway, through direct contact, soil ingestion or food chain transfer exposure routes, is of primary concern for terrestrial plant and animal species at the BN OU2 site.

The substances identified as hazardous to human health and/or the environment include:

- PCE
- TCE
- TCA
- DCE
- DCA
- Arsenic
- Cadmium
- Lead
- Polyaromatic Hydrocarbons (PAHs)
- PCBs

## IV. REMEDIAL ACTIONS

### IV.1. Remedy Selection

#### IV.1.1. Waite Park Wells

RAs for WPW were identified under the EM Site ROD; thus, a separate ROD was not executed

for WPW. The selected remedy consisted of treatment of the groundwater using a packed aeration tower (air stripper) prior to distribution to the municipal water supply system for consumption.

### IV.1.2. EM OU1

The 1989 ROD specified the following Remedial Action Objective (RAO): "… to abate or minimize the continued migration of volatile organic compounds from the Site through the groundwater system." Section X of the ROD states the selected remedy was Alternative IIIB, which consists of:

- Installation of groundwater pumpout wells in both the shallow and deep aquifers;
- Treatment of contaminated water with a packed tower aeration system (air stripper); and
- Discharge treated groundwater from the air stripper to the Sauk River.

The EM ROD states that groundwater at the Site will require two separate but related actions: [1] satisfactory capture of shallow and deep plumes moving north of the Site, and [2] removal of sufficient quantities of groundwater to reduce the concentration of the remaining groundwater to the required level. Capture will be achieved by the proper design, placement and operation of shallow and deep pumpout systems. Groundwater risk reduction will be achieved by continuing to operate the pumpout system until the more restrictive of Maximum Contaminant Levels (MCLs) or Recommended Allowable Limits (RALs) for VOCs in both the shallow and deep aquifers are met. The cumulative excess carcinogenic risk of the two carcinogens, PCE and TCE, at the stated cleanup levels is approximately $1.2 \times 10^{-5}$. This level of protection is deemed adequate since no one at the Site is drinking the water or is likely to since the entire area is served by municipal water. The target cleanup levels for the other three contaminants of concern at the Site (TCA, DCE and DCA) are set at the MCLs or RALs where no MCLs are available. Upon consultation with MDH, it was determined that analysis of cumulative effects of these non-carcinogens was not needed since the systemic effects of each of these contaminants are different.

Table 4 of the ROD lists each contaminant, its MCL, RAL, and target cleanup level. The contaminants and target cleanup levels are also summarized in Section VII.2 of this Five-Year Review.

The ROD states that contaminants outside the zone of remediation at the Site which are currently being transported to the Waite Park municipal water supply will be treated by the stripper at that location. The target cleanup levels for on-site VOC contaminants may not be achievable by the selected RA. If that becomes the case, alternate concentration levels may need to be considered.

The ROD also requires that a deed notice be placed on the property pursuant to Chapter (Ch.) 115B.16, Subd.2 of MERLA.

### IV.1.3. BN OU2

The 1994 ROD for the BN Site specified the following RAO "to prevent current or future exposure to the contaminated soils and to reduce contaminant migration into the groundwater" through the stated objective of "source removal and [meeting] remediation levels." The selected remedy is Alternative C: Solidification/Stabilization and On-site Containment. The selected remedy included the following actions:

- Excavation of the lagoon waste, sandblast sands, and the dirt floor of the paint building on the property now owned by Waite Park Manufacturing, Inc.; incorporation of the [previously] consolidated sandblast sands [with the waste]; excavation of the contaminated waste until all visible oily soils and sandblast sands are removed; sampling from the sidewalls and bottom of the excavation to meet the remediation levels; removal and treatment of any visible oil floating on the groundwater; and backfilling with clean soil, compaction, topsoil and seed.
- Solidification/stabilization of the waste to reduce the concentration of contaminants to below hazardous levels and to minimize the mobility of the contaminants in the waste material; and treatability studies to determine the most appropriate method.
- Placement of the treated waste in a containment facility constructed on-site pursuant to Minnesota (Minn.) Rules Ch. 7035 pt. 2815, with a liner system, leachate collection and detection, cover system, groundwater monitoring and gas collection; contingency action plan and post-closure requirements conducted pursuant to Minn. Rules Ch. 7035 pt. 2615 and 2645.
- Restrictions would be placed on any area that is not remediated to unrestricted land use remediation levels and on property containing the containment facility.
- Groundwater monitoring network installed or upgraded in the vicinity of the lagoons and monitoring well MPCA 14-S; and groundwater monitoring plan.
- Area A was to be remediated to unrestricted land use levels. Areas B through H were to be remediated to commercial/industrial land use levels.

After the containment cell was constructed, a subsequent assessment documented the presence of additional contaminated soil which was excavated and stockpiled on-site. On August 11, 1998, the MPCA issued an ESD. The ESD presented an Integrated Remedy which allows a risk-based approach to address known and potentially impacted soil at the Site with a combination of any of the following RAs: excavation, treatment and hauling to an off-site landfill, evaluating risk of exposure to public health and the environment to determine if impacted material may remain in place, and use of engineering and institutional controls to assure that the remedy remains protective.

The 1998 ESD indicated stockpiled soil [from post-containment cell excavations] would be stabilized and transported to an off-site landfill for disposal with solidification as an option. Treated soil must meet the soil cleanup levels in Table 4 of the ROD and off-site landfill waste acceptance criteria. A risk-based approach would be used to determine whether contamination may remain in place as a part of an integrated remedy, with the use of engineering and institutional controls as necessary to assure that the remedy remains protective of public health and the environment. The integrated remedy must be developed in accordance with the needs of all affected parties. MPCA approval or conditional approval of proposed actions or contingency plans is required. Institutional control language must include Site conditions, use or activity restrictions, notification of the presence of residual contamination and accompanying controls, and/or assurance that long-term mitigation measures or monitoring requirements (e.g., engineering controls) are carried out and maintained. An example is that Area A requires restrictions on excavation activities due to remaining impacted soil and debris at a depth greater than four feet.

## IV.2. Remedy Implementation

### IV.2.1. Waite Park Wells

During September 1986, the MPCA approved an RA which consisted of installation of a packed tower aeration system to remove the contaminants from the water prior to consumption. BN and the RPs for the EM Site jointly funded and implemented the water treatment system, and the City water supply wells were placed back into service in February 1988. The City took over operation and maintenance of the treatment system after it was constructed.

The City has since installed additional water supply wells and built a new treatment facility with a design for better iron control to meet the additional demand for potable water. The original treatment plant has been decommissioned. Municipal Well 5 and the new treatment building were brought into service in May 2002. The City is currently pumping from wells 1, 3, 4 and 5 (**Attachment C1)**.

### IV.2.2. EM OU1

Remedial actions included the installation of three pumpout wells: PW-1, PW-2 and PW-3. Wells PW-1 and PW-3 were installed on the eastern portion of the EM Site, located south of the main building and east of the thermolastics wing (**Attachment C2**). Well PW-1 was completed in the shallow aquifer, and PW-3 was completed in the deeper aquifer. Pumpout well PW-2 was installed in the shallow aquifer along the western portion of the Site and south of the main building.

Beginning in September 1988, groundwater was pumped from PW-1 and PW-2 to an on-site remediation building for treatment using a packed aeration tower prior to discharge to the Sauk River. Well PW-3 was not used for groundwater extraction. Well PW-2 was abandoned in 1998. Groundwater pumping from PW-1 continued through April 2001 when groundwater remediation was discontinued as part of a test shut down. The EM Site had a water appropriations permit from the Department of Natural Resources (DNR) for the shallow (permit no. 893231) and the deeper aquifer (permit no. 893230). The permits were terminated in June of 2003.

The soil investigation performed during the initial RI for the EM Site identified some localized areas of limited contamination, and soil remediation was not required. After 10 years of pumpout, EM Site RPs looked at ways to reduce costs and time of operation. To determine whether excavation of contaminated soil was a feasible means, an additional soil investigation was conducted during the fall of 1999. The additional investigation identified Source Area 1; 2,656 tons of soil were excavated from the former unregulated disposal pit in the southwest portion of the Site and disposed of at an industrial landfill. Two other areas of contaminated soil were identified south of the building and east of the thermolastics wing, located near PW-1 and near the former paint booth.

An SVE system was installed at monitoring well EM-9S, near the former paint booth source area. The SVE system operated from October 2000 through July 2002 and had a radius of influence of approximately 70 feet.

### IV.2.3. BN OU2

Pursuant to the ROD, BN initiated RAs at OU1 and OU2 and implemented a groundwater monitoring program (OU3). Contaminated soil from the three lagoons at OU1 and sandblast sands from OU2 were excavated and placed in an on-site containment cell in 1994 and 1995 (shown on Figure **Attachment C3**). Several rounds of assessment and RAs have been completed across the remainder of the BN Site and are presented below.

BN abandoned six monitoring wells and reportedly transferred ownership of three monitoring wells to the City in 2002. The abandoned monitoring wells include MPCA14S, ERT25D, MPCA4D, MPCA11D, Railroad well #1, and Railroad well #2. The three wells were reportedly transferred to the City were MPCA13D, MPCA3D, and ERT26D. The only remaining monitoring wells used by BN are MW28, MW33, MW34, and NW3S. These wells are used for monitoring around the containment cell.

The ESDs allowed an Interim Remedy to address the lead-impacted soil on the BN Site. Several iterations of assessment and RAs were performed since 1998. The assessment and RAs are summarized as follows:

- BN excavated approximately 105,000 tons of lead-contaminated soil from Areas A, B and C which was stockpiled on-site. Between May and August 1999, the stockpiled soil was stabilized on-site using EnviroBlend, a commercial stabilizing product, and transported to the Superior FCR Landfill located in Buffalo, Minnesota for disposal.

- Approximately 60 acres of the BN Site remained to be investigated on all or parts of Areas B, C, D, E, F, G and H. The additional investigation to delineate the lead-impacted areas was completed in 2000. The assessment also detected several areas with elevated arsenic concentrations. The arsenic-impacted areas coincided with lead-impacted areas.

- The additional assessment included the adjacent Park Press property, located at 355 6th Avenue North, which is part of the BN Site. The assessment detected lead, cadmium, and arsenic concentrations which are below the cleanup levels established for the BN Car Shop Site. The MPCA stated in an April 10, 2002 letter that "no further RA is required at this property."

- RAs were completed on the BN Site during September and October 2000 along the northern portion of Areas G and H. The RAs included the excavation, treatment, and off-site disposal of lead-impacted soil and also included the excavation and off-site disposal of asbestos-containing material (ACM) that was discovered intermixed with the lead-impacted soil. An estimated 7,884 cubic yards of impacted soil was excavated, stabilized using EnviroBlend, and transported to Superior FCR Landfill for disposal.

- RAs were completed on the BN Site during August through November 2000 and June through August 2001 at Area F and the southern portion of Areas G and H. The RA included the excavation, treatment and off-site disposal of lead-impacted soil and also included the excavation and off-site disposal of ACM that was discovered intermixed with the lead-impacted soil. An estimated 24,000 cubic yards of impacted soil were

excavated, stabilized using EnviroBlend, and transported to Superior FCR Landfill for disposal.

- Approximately 17,400 tons of lead-impacted soil were excavated from Lots 1, 2 and 3 of Block 2 in the West River Business Park in 2000. Based on the analytical data, these soils did not require treatment prior to disposal at the Elk River Landfill in Elk River, Minnesota.

- Contaminated soil was excavated in 2001 from the BN property in Areas F, G and H; from the West River Business Park Partnership, L.L.P. property in Lots 2, 3, 4 and 5 of Block 1 located in Area B; and from the Waite Park Manufacturing, Inc. property located in Areas B and D. The RA also included the excavation and off-site disposal of ACM that was discovered intermixed with the lead-impacted soil at select areas of the Site. A total of 31,968 tons of impacted soil was stabilized using EnviroBlend and transported to Superior FCR Landfill for disposal.

- On April 30, 2001, an additional 40 cubic yards of lead-impacted soil were excavated from areas MM-60, MM-61 and MM-62 on Lot 2 of Block 2 on the West River Business Park portion of the former BN property.

The BN Site was delisted from the PLP on July 2, 2002, with all RAs completed and with a contingency plan in place for cleanups if additional development occurs.

## IV.3. System Operation and Maintenance

No state or federal funds were spent for O&M on the WPW Site.

### IV.3.1. Waite Park Wells

The City follows an O&M plan for the water treatment plant. The City continues to collect quarterly water samples at three points in their treatment system (influent, after the air stripper, and after discharge to the distribution system [sample ports S-1, S-2, and S-3]). The quarterly analytical results are included in the EM AMRs.

### IV.3.2. EM OU1

Routine groundwater monitoring is performed at select monitoring wells based on a schedule approved by the MPCA staff. Current monitoring includes:

- Collect groundwater elevation measurements from 12 groundwater monitoring wells (EM-4S, EM-8S, EM-8D, EM-9S, EM-9M, EM-10S, EM-22D, EM-24D, EM-40S, EM-40D, NW-2D, and PW-1).
- Collect stabilization tests and collect groundwater samples from 8 groundwater monitoring wells (EM-4S, EM-8S, EM-8D, EM-9S, EM-9M, EM-22D, EM-24D, and NW-2D). Analyze groundwater samples for VOCs.

### IV.3.3. BN OU2

Maintenance and monitoring at the containment cell is performed in accordance with the January 1997 Contingency Action Plan and Post-Closure Monitoring Plan, and the MPCA approved modifications as specified in the AMRs. **Attachment C3** includes a figure identifying the location of the containment cell and monitoring points.

Containment cell monitoring includes groundwater monitoring, leachate discharge monitoring, physical monitoring and maintenance of the containment cell, and project reporting. Post-closure monitoring completed in 2008 included one groundwater monitoring event and three leachate sampling events for various field measurements and laboratory analyses. The physical condition of the containment cell, the fence and the monitoring wells are checked quarterly, and the vegetative cover is mowed annually. Groundwater sampling and analysis is performed annually at the four monitoring wells and quarterly at the sump. The lysimeter is checked quarterly for the presence of leachate. Leachate from the sump is pumped quarterly for disposal.

On July 10, 2008, the Metropolitan Council Environmental Services (MCES) reissued Permit No. 2220. The reissued permit reduced the leachate sampling frequency and the MCES reporting frequency from quarterly to annually. The sampling requirements outlined in the reissued permit were also modified as presented below:

- VOCs – One grab sample during Jan 2008 to Dec 2010
- PCBs – One grab sample during Jan 2008 to Dec 2010
- PAHs – No further PAH sampling required
- Total metals As, Cd, Cr, Cu, Hg, Mo, Ni, Pb, Se, Zn – One grab sample per year
- Total suspended solids – One grab sample per year
- Chemical oxygen demand – One grab sample per year
- pH – One grab sample per year

## V. PROGRESS SINCE THE LAST REVIEW

The Five-Year Review completed in 2005 contained several recommendations that are listed below in the order they were presented in the review. The status of implementation of each recommendation presented in the 2005 review is described immediately following the recommendation. The recommendations and the status are as follows:

- *Recommendation 1*. The City should continue air stripper treatment and monitoring VOC concentrations at the Waite Park municipal wells prior to treatment, at the midpoint, and post treatment.
- *Status 1*. The City has continued air stripper treatment and monitoring VOC concentrations at the Waite Park municipal wells prior to treatment, at the midpoint, and post treatment.

- *Recommendation 2*. For the EM groundwater, the MPCA should conduct the PCE, TCE, and mixtures risk review when the EPA completes the PCE and TCE risk assessments.
- *Status 2*. As noted in the 2005 EM AMR, the EPA has the primary responsibility to conduct the PCE, TCE, and mixtures risk review after EPA headquarters completes the PCE and TCE toxicity review. This issue cannot be addressed until that review is completed by EPA. It was anticipated EPA would begin their toxicity review in September 2007 and publish their final review in 2009. The EPA has not completed this review.

- *Recommendation 3*. EM RPs should submit and implement an Institutional Control (IC) Plan (including the IC Monitoring Plan), for the EM Site and for the properties over the

plume, that meets the requirements to be developed by the MPCA; assure that ICs appear within the chain of title; document existing ICs; and complete and record the IC easement/declaration of restrictions and covenants for a minimum of the following land and groundwater restrictions as applicable that prohibit:

a) disturbance of soil at the EM Site property unless pursuant to a work plan approved by the MPCA Commissioner;
b) well drilling and use of groundwater in the plume until cleanup levels are achieved;
c) inappropriate uses of the EM Site land including residential use where soils exceed the residential standard or unlimited use and unrestricted exposure.

- *Status 3*. On November 10, 2006, Barr Engineering, on behalf of EM, submitted a draft IC Plan for MPCA review. In addition, Barr worked with Grede Foundries in the development of a declaration of Restrictions and Covenants and Affidavit Concerning Real Property Contaminated with Hazardous Substances. The declaration and restrictions have not been filed, and the IC plans have not been finalized. Also, in 2010, MPCA contracted with Bay West to conduct IC evaluation activities and make recommendations for the ICs at the Site. MPCA will subsequently request an IC Plan from the EM RPs.

- *Recommendation 4*. EM RPs and the MPCA should evaluate the effectiveness of the test shut down of the groundwater remediation system at the EM Site and determine whether to continue with the pumping system shut down or to reinitiate groundwater pumping.
- *Status 4*. 2005 AMR proposed analyzing six rounds of groundwater monitoring samples following pump-out system shutdown to determine if the plume has remained stable during the six annual monitoring periods following shut down. According to the 2008 AMR, "*Based on the data collected during annual sampling events for the past five to ten years, the plume appears to be stable and generally decreasing. In addition, sampling results indicate evidence of natural attenuation processes.*"

- *Recommendation 5*. EM RPs should continue monitoring and further evaluation of the pumpout effect from the WPW water supply, for a better understanding of reasons for a recent increase at EM well 8S after the pumping shutdown.
- *Status 5*. EM has continued this monitoring. Data analysis is presented in Section VI.4.2. From the EM 2005 AMR: "*Review of data from 2001 through 2005 suggests that the increase in COC concentrations measured in 2004 was likely a response to an increase in contaminant concentrations in the former cone of depression from well PW-1 as the water levels rose and water absorbed contaminants on the aquifer solids in the vicinity of well EM-8S. Concentrations have decreased in 2005 relative to 2004 levels. Changes in water quality samples from EM-8S do not warrant a separate review since the data are only meaningful in context of water quality changes over several years. Data from well EM-8S will be further reviewed as part of the Site remedial system review…"* Also see response to Recommendation 4 above.

- *Recommendation 6*. EM RPs should identify which monitoring wells have been abandoned and which wells remain, optimize the monitoring plan at the EM Site, and continue groundwater monitoring. In the annual monitoring reports, EM should make recommendations for changes in the plan based on the new data.

- *Status 6*. As noted in the Site Inspection (Section VI.6.2) this work has not been adequately completed.

- *Recommendation 7*. EM RPs should complete a Vapor Intrusion Assessment for indoor air at the EM building and any off-site buildings located over the plume, and take actions appropriate to the results.
- *Status 7*. A Vapor Intrusion Assessment has been completed and results and recommendations are summarized in Section VI.4.2. In summary, the results of the investigation indicated that further work needs to be completed for the vapor intrusion pathway including a building survey and air quality survey.

- *Recommendation 8*. BN should submit and implement an IC Plan (including the IC Monitoring Plan), for the BN Site that meets the requirements to be developed by the MPCA; assure that all ICs appear within the chain of title; document existing ICs; provide maps documenting the locations and associated ICs; and complete and record the remaining IC easements declarations of restrictions and covenants for a minimum of the following land and groundwater restrictions as applicable that prohibit:

  a) interference with or disturbance of the cap and contaminated soils located within the containment cell;
  b) disturbance of subsurface soils at the BN Site properties in areas where contaminated soils may exceed industrial cleanup levels;
  c) well drilling and use of groundwater until cleanup levels are achieved;
  d) residential use of land where soils may exceed the residential level or unlimited use and unrestricted exposure (UU/UE), including Area A where the only allowed uses are public park or industrial/commercial; and
  e) any use of land other than industrial/commercial on Areas B-H.
- *Status 8*. A BN IC Plan has not been developed. MPCA will request an IC Plan from the BN RPs.

- *Recommendation 9*. BN should complete repairs to the fence, minimize access under the fence at the stormwater rip-rap areas, and continue maintenance at the BN containment cell.
- *Status 9*. Repairs have been completed, and monitoring and maintenance is ongoing.

- *Recommendation 10*. BN should determine the reason for the increase in leachate volume and continue groundwater monitoring at the BN containment cell.
- *Status 10*. Leachate collection and groundwater monitoring of the BN containment cell are ongoing. In addition, on May 29th, 2007, the RETEC Group, Inc. provided a response letter regarding MCPA comments on the 2006 AMR including information on potential reasons for increased leachate generation: "*Initial indications of leachate production in 2007 indicate an efficiency of 99.7 percent. Thus, an isolated year of increased leachate production following a year of above average precipitation does not substantiate an increasing leachate production trend. On this basis, BNSF proposes no actions other than continued reporting of the leachate and rainfall amounts.*" The most recent cell efficiency calculations are presented in **Attachment C.3.**

- *Recommendation 11*. EM RPs and BN should assure that further development occurs in compliance with approved RAs. The planned EM Site and BN Site agreements for O&M should have a periodic review provision to assure IC compliance and effectiveness.
- *Status 11*. IC compliance and effectiveness have not been fully addressed. An IC Evaluation was performed separately from this Five-Year Review and is included and summarized in Section VI.5.

# VI. FIVE-YEAR REVIEW PROCESS

## VI.1. Administrative Components

The Five-Year Review was initiated on October 15, 2009. The EM, BN and City representatives were notified of the initiation of the Five-Year review during October 2009. The review components include:

- Community Involvement
- Document Review
- Data Review
- Institutional Control Evaluation
- Site Inspection
- Local Interviews
- Five-Year Review Report Development and Review

## VI.2. Community Involvement

On April 23, 2010, a notice was published in the St. Cloud Times newspaper announcing that a Five-Year Review was being conducted for the WPW Site, the EM Site and the BN Site. A copy of the public notice is presented in **Attachment D**.

Representatives of the RPs, city and county officials were notified that the Five-Year Review was being conducted and either participated in the Site Inspection or interview process presented in Sections VI.6 and VI.7, respectively.

## VI.3. Document Review

This Five-Year Review consisted of a review of relevant documents including the RODs, AMR with O&M activities and monitoring data, MPCA staff response letters, the previous Five-Year Review reports, and other reports. A list of the documents reviewed is presented in **Attachment B**.

The Five-Year Review is being conducted to determine whether the Site RAs remain protective of public health and the environment. The more specific purpose of the review is two-fold:

1. to confirm that the remedy as spelled out in the RODs and/or remedial design remains effective at protecting human health and the environment (e.g., the remedy is operating and functioning as designed, ICs are in place and are protective), and
2. to evaluate whether original cleanup levels remain protective of human health and the environment. Applicable or Relevant and Appropriate Requirements (ARARs) and To Be Considereds (TBCs) are key elements in fulfilling these two purposes.

The RAs at the Site must be reviewed and analyzed against the newly promulgated or modified federal and state environmental laws. The RODs discuss ARARs and TBCs. Of these, the ARARs and TBCs which most directly impact protectiveness are discussed here. No newly promulgated laws or regulations are known which will impact the remedy at this time, with the exceptions of MCLs under the Safe Drinking Water Act and the State RALs, Health Risk Levels (HRLs), and Health Based Values (HBVs); these are discussed more thoroughly in the Section VII Technical Assessment.

### VI.3.1. ARARs Specified in the ROD for Waite Park Wells

The RAs for WPW were completed under the ROD for the EM Site; therefore, the EM Site ARARs also apply to WPW.

### VI.3.2. EM OU1 ROD ARARs and TBCs

EM ARARs

1. The Resource Conservation and Recovery Act (RCRA), 40 CFR Part 264. Requires removal of all waste residues and soil contaminated with hazardous waste. The ROD indicates that VOCs entering the groundwater from the soils will be removed by the shallow aquifer pumpout system at the EM Site. Although the pumpout system removes contaminants once they reach the groundwater, it is possible that contaminants remain in soils that continue to impact the groundwater.
2. Clean Water Act (CWA) 40 CFR Parts 122 and 125. Establishes the National Pollutant Discharge Elimination System (NPDES). Treated groundwater is discharged to the Sauk River via the storm sewer system and is regulated through the requirements of a NPDES permit.
3. Safe Drinking Water Act (40 CFR Parts 141 - 146). Establishes federal MCLs and maximum contaminant level goals (MCLGs) for contaminants in public drinking water supplies. Treated groundwater from the City water supply wells is currently in compliance with the MCLs. This ARAR also establishes the cleanup goals (MCLs/MCLGs) for contaminated groundwater aquifers.
4. Minn. Statute (Stat.) 115 and 116 and Minn. Rules. Chs. 7001 and 7050. These ARARs regulate the discharge of the treated water to the Sauk River under an NPDES permit.
5. Minn. Stat. 116.07, subd. 4.A. Regulates air emissions of toxic pollutants. At the time the ROD was prepared, the operation of the air stripper did not require a permit. Emissions from the air stripper were evaluated during the second Five-Year Review and were found to be below Minnesota's Allowable Emission Rates.

### VI.3.3. BN OU2 ROD ARARs and TBCs

ARARs

1. CERCLA as amended by Superfund Amendments and Reauthorization Act of 1986 (SARA) and the NCP. Specific cleanup requirements, preference for permanence, and use of ARARs.
2. 40 CFR 258. Post-closure care and monitoring must continue for 30 years.
3. Safe Drinking Water Act, National Primary Drinking Water Standard (40 CFR part 141-143). Establishes MCLs and MCLGs, health- and treatment-based numbers for regulating public water supplies and cleanup goals for contaminated groundwater aquifers.
4. The RCRA Identification and Listing of Hazardous Waste (40 CFR Part 261). Establishes Land Disposal Restrictions (40 CFR Part 268, Subtitle C of RCRA) which

restrict the land disposal of RCRA hazardous wastes, and Groundwater Monitoring Response Requirements (40 CFR 264.94).

5. Clean Air Act. Establishes National Primary and Secondary Ambient Air Quality Standards (40 CFR Part 50).
6. Minn. Stat. 115B (1992). MERLA. Identifies RAs as response to a release to protect the public health and welfare or the environment.
7. Minn. Stat. 115.061 (1992). The Minnesota Pollution Control Act. Provides for protection of the waters of the state by requiring the RP to "recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby."
8. Minn. Stat. 115.03 (1992). Provides that the MPCA may require and enforce a permit for any discharge to the waters of the State.
9. Minn. Rules Ch. 4717 Health Risk Limits. Establishes HRLs for groundwater contaminants. HRLs replace RALs where both exist for a contaminant, since HRLs are based on more recent risk information, and they are promulgated.
10. Minn. Rules Ch. 7007 and 7009. Provide that Air Emissions and Ambient Air Quality Standards apply during excavation, treatment and construction activities.
11. Minn. Rules Ch. 7035.2815. Applies to the construction and monitoring requirements of an on-site containment facility under Solid Waste Management.
12. Minn. Rules Ch. 7060 (1991). Applies to protection of water quality of waters of the state.

TBCs

1. RALs. Established by the MDH, Release No. 3, January 1991, are not promulgated, but are health risk levels used by the MPCA where no MCL or HRL exists.
2. $10^{-5}$ Risk Level. Unpublished September 1985 MDH Report on tolerable risk levels/exposures.

### VI.4. Data Review

As part of the five-year review process, available reports were reviewed since the last Five-Year Review. A summary of the pertinent data is provided in the following subsections. It should be noted that documents on the containment cell/berms created during the City water treatment plant infrastructure upgrades and Waite Avenue North were not found in the files. In addition, not all of the BN containment cell AMRs were found in the files (specifically 2005 through 2007). However, their results were summarized in the 2008 AMR.

#### VI.4.1. Waite Park Wells

As reported in the EM OU1 2008 AMR, the City collected quarterly water samples at three points in their treatment system in 2008 (sample ports S-1, S-2, and S-3). Monthly pumping rates and water quality data are shown on Figures included in **Attachment C1**. Sample port S-1 monitors the quality of the water entering the water treatment system. The concentrations of samples collected at port S-1 are consistent in magnitude with concentrations from 2005, 2006, and 2007 with a notable decreasing trend in 2008. the maximum concentrations for each of the following parameters for each of the past four years are (2005, 2006, 2007, 2008): tetrachloroethene (PCE: 31 ug/L, 38 ug/L, 40 ug/L, 17 ug/L), trichloroethylene (TCE: 37 ug/L, 39 ug/L, 40 ug/L, 21 ug/L), and cis-1,2-dichloroethylene (DCE; 19 ug/L, 19 ug/L, 17 ug/L, 8

ug/L). As shown on Figure 20, **Attachment C1**, pumping increased during the spring and early summer months.

The detection of VOCs in the influent water has been historically associated with the pumping of City Well No. 5, located nearest to the WPW Site. While total pumping was similar to previous years, the pumping from City Well No. 5 in 2008 did not increase as much as in past years and was similar to the pumping in 2007.

The water samples from sampling port S-2, after the air stripping treatment, had no detection of VOCs in 2008; there were no detections of VOCs in 2005, 2006, or 2007. The samples from sampling port S-3, after the water is chlorinated, had no VOCs except for bromodichloromethane, chlorodibromomethane, chloroform, and chloromethane, which are commonly associated with chlorination of municipal water supplies.

### VI.4.2. EM OU1

Ongoing groundwater monitoring is performed at select monitoring wells as proposed in the AMRs and approved by the MPCA. The groundwater monitoring includes the collection of water levels and groundwater samples for laboratory analysis. Under water supply pumping conditions at the municipal wells, the horizontal groundwater flow direction is generally to the east in both the shallow and deeper aquifer based on the groundwater elevations collected during the 2009 sampling events. The current horizontal flow direction is consistent with the historical pumping conditions flow direction, in that flow was south and east on the EM Site in the surficial aquifer toward the window; then, east in the lower aquifer to the municipal wells.

Concentrations of COCs detected in 2009 indicate the plume remains generally stable. According to the 2008 AMR: *"Based on data collected during annual sampling events for the past five to ten years, the plume appears to be stable and generally decreasing. In addition, sampling results indicate evidence of natural attenuation processes."* Figures showing groundwater flow directions, groundwater elevations versus time, and contaminant concentrations over time in selected wells presented in 2009 AMR are included in **Attachment C2.**

Groundwater flow towards the municipal wells occurs only under pumping conditions of the municipal wells. If the wells were turned off, the plume would no longer be stable and would revert to its natural flow, influenced by the Sauk River. Contingency plans should be in place in the event of the City municipal well shutdown. Contingency plans would require assessment of the extent and magnitude of the plume in three dimensions to account for the variability in the subsurface conditions.

In 2008, Barr completed an Investigation and Groundwater Monitoring Report (Barr, 2008). The report presents the results of field investigation activities conducted in July and August and included the following three components:

- Soil vapor assessment near the former SVE well EM-9S.
- Soil sampling in a historical source area near the former pump-out well PW-1 to verify whether significant targeted source materials remain on the Site.

- Groundwater sampling north of the Site to delineate the extent of the chlorinated VOC plume in the lower aquifer.

The results of the investigation indicated that further work needs to be completed for the vapor intrusion pathway including a building survey and air quality survey as summarized below:

> *It is recommended to conduct a Tier 3 evaluation that will consist of a building inspection and air quality survey. The building inspection will include an evaluation of the facility's HVAC system, operation of the system, and documentation of the type of building ventilation, the type of building construction, information on building use and occupants, potential vapor entry points, etc. The air quality survey will include a chemical inventory and documentation of facility processes to identify potential sources of interior background contamination. Foundries typically have baseline odors due to metal pouring, furnaces, oils, etc. In order to minimize disturbance to the facility operations at the Site, sub-slab sampling is not recommended. An evaluation for the need to collect indoor and outdoor air samples will be completed following the facility inspection, and will include multiple lines of evidence, including potential indoor or outdoor background sources, building use, construction and ventilation, as well as consideration of the Site conceptual model.*

The investigation also included a source area investigation near the former pump-out well PW-1 to verify whether significant targeted source material remains on the Site. The source area borings did not identify any significant presence of targeted source material above or below the water table.

In addition, an off-site groundwater investigation was conducted north of the Site to evaluate the extent of the chlorinated volatile organic compound (cVOC) plume in the lower aquifer. These borings were requested by the MPCA in a meeting on February 5, 2007. The purpose of these borings was to determine if migration of cVOCs had occurred to the north of the Site based on historic concentrations in samples from EM-24D. Based on the location of PB-4 and PB-2 to the north of well EM-24D and PB-3 not having detections of Site COCs, and that the deep groundwater gradient is to the east-southeast, it is likely that contaminants are not migrating north past EM-24D and PB-3. Therefore, it was concluded that that the plume is delineated to the north.

The investigation also concluded that "*Overall, the plume appears to be continuing to dissipate, with some continued natural attenuation as evident from the presence of the daughter products cis- and trans-1,2 DCE in samples from well EM- 22D …" and "The total number of micromoles per liter decreased in EM-8S and EM-22D, indicating that natural attenuation is occurring.*"

### VI.4.3. BN OU1

As reported in the 2009 AMR, quarterly Site inspections indicated no significant concerns with the physical integrity of the containment cell. The groundwater and leachate water quality observed in 2008 is consistent with observed water quality during historic sampling events. Leachate is pumped from the sump on a quarterly basis and transported to MCES for disposal in accordance with permit no. 2220.

The 2009 AMR concluded:

> "*The leachate volume removed in 2008 (approximately 8,300 gallons) is consistent with the annual leachate volume removed since 1998." and "The observed consistency of the water level measurement in the Lysimeter confirms the integrity of the Containment Cell bottom liner. The water table remains below the bottom of the Containment Cell. Based on the concentrations observed in the leachate and groundwater for the various constituents of potential concern, and the spatial separation of the water supply wells and the Containment Cell, the Containment Cell appears to present limited, if any, risk to the Waite Park water supply wells. The Containment Cell appears to be functioning as designed, and leachate from the Containment Cell is not impacting the underlying groundwater*."

The 2009 AMR tables showing historical leachate volumes and containment cell cap efficiency calculations are included in **Attachment C3.**

## VI.5. Institutional Control Evaluation

An IC Evaluation was performed by Bay West (as contracted by MPCA) separately from this Five-Year Review and is included as **Attachment E.** ICs are legal and administrative tools used to maintain protection of human health and the environment at sites where contaminated materials may remain. The EPA defines ICs as "non-engineered instruments that help minimize the potential for human exposure to contamination and protect the integrity of the remedy." ICs are generally consolidated into the following four categories:

1. Governmental controls (e.g., zoning, local ordinances);
2. Proprietary controls (e.g., easements, restrictive covenants);
3. Enforcement and permit tools (e.g., consent decrees, administrative orders); and
4. Informational tools (e.g., notices filed in the land records [affidavits], advisories).

The purpose of the IC review was to determine what ICs were in place, and whether they maintain protectiveness and notify potential parties of risks.
In summary, there are no enforcement and proprietary tools associated with the Site. However, the IC evaluation did identify at least two layers of ICs on each parcel, in the form of governmental controls (zoning and wellhead protection, etc.), proprietary controls and informational tools (including affidavits required by Minn. Stat. § 115B.16 subd. 2 to be recorded by the property owner with the County Recorder to provide information about hazardous waste at the Site to any potential transferee, for all but two parcels). Although governmental and informational tools provide a measure of protection, proprietary controls in the form of restrictive covenants containing enforcement language would provide a superior protection to human health and the environment.

Based on a review of documents available at the MPCA, Stearns County, and the City, Bay West identified 30 individual parcels on the Site. Six of these parcels are within the EM OU1 Site and twenty-four are within the BN OU2 Site. A title search was performed on each individual parcel. Additional detail on the title search is provided in **Attachment E**.

The IC evaluation concluded the following:

- The ICs do not provide a consistent method for notifying interested parties of the restrictions or the exact locations of contamination which would likely affect the long-term stewardship of the properties.
- Access agreements are sporadic and do not appear to be consistently in place. However, some of the ICs allow access to the MPCA as necessary to address the contamination.
- Some of the ICs reviewed, specifically affidavits, do not appear to have been recorded on each of the parcels to which they should apply.
- Most of the ICs do not contain enforcement language consistent with current MPCA guidance as they were prepared and filed before the current MPCA guidance was published.

The IC evaluation recommended the following actions to enhance the reliability of the ICs:

- As stated previously, although there are two layers of ICs (governmental and informational tools), proprietary controls with enforcement language would provide a superior layer of increased protection to human health and the environment. The ICs generally do not provide a consistent method for notifying interested parties of the restrictions or the exact locations of contamination which would likely affect the long-term stewardship of the properties.
- Notify the current land owners of the MPCA guidance on ICs to assure that as future ICs are prepared, they follow current guidance.
- Review the ICs that currently are in place but are not being applied consistently, to determine if they should be "re-recorded" for the parcels to which they apply but are not currently recorded. Re-recorded or newly prepared affidavits and proprietary controls should include MPCA guidance enforcement language under the Uniform Environmental Covenants Act (UECA)[a].
- Prepare IC Plans. Long-term protectiveness at the Site requires compliance with use restrictions to assure the remedy continues to function as intended. To assure proper maintenance, monitoring, enforcement, and long-term stewardship of the ICs are maintained, IC Plans should be prepared for each of the Sites. The Long-Term Stewardship section below describes what should be included in the IC Plans.

[a] If additional ICs are needed and proprietary ICs are recommended, then consideration should be given to implementing environmental covenants (ECs) under the UECA. Properly drafted UECA ECs will assure that the restrictions are enforceable and run with the land to assure long-term Site stewardship. The UECA provides numerous statutory benefits, including a standard process for creating, modifying, recording, and enforcing ECs.

Compliance with ICs is required to assure long-term protectiveness for those areas that do not allow for UU/UE. **Table 2** below summarizes existing institutional controls for these restricted areas.

| **Table 2: Existing Institutional Controls** | | |
|---|---|---|
| ***Media, remedy components & areas that do not support UU/UE based on current conditions*** | ***Objectives of IC*** | ***Title of Institutional Control Instrument Implemented*** |
| ***EM OU 1 Site***<br>Identified as parcels 23, 24, and 27 – 30.<br>Contains groundwater that exceeds groundwater cleanup standards and soils that will not allow for UU/UE. | Determination to be made for each parcel.<br>Objectives to be considered are: Prevention of exposure to groundwater, interference with remedial component, and inappropriate land use (residential, commercial, and industrial). | Under Review |
| ***BN OU 2 Site***<br>Identified as parcels 1-22, and 25-26.<br>Contains groundwater that exceeds groundwater cleanup standards and soils that will not allow for UU/UE. | See above | Under Review |
| ***EM and BN Sites***<br>Possible vapor intrusion is under investigation for the EM Site. | Prevent exposure to vapor intrusion. | Under Review |
| ***Remedy Components*** | Prevent interference with remedial components. | Under Review |

*A map is attached which depicts the OU1 and OU 2 parcels. Additional maps will be created in the IC Plans discussed below to depict the current conditions of each parcel and areas which do not allow for UU/UE.*

**Current Compliance**: Based on the Site inspection and data, no inappropriate land or groundwater uses were observed by MPCA. No evidence exists which would bring into question any Site or media uses which are inconsistent with the stated objectives of the ICs and cleanup goals.

**Long-Term Stewardship**: Long-term protectiveness at the Site requires compliance with effective ICs to assure the remedy continues to function as intended. Compliance with effective ICs will be assured by ensuring effective ICs are maintained, monitored and enforced as well as maintaining the Site remedy components. To assure proper maintenance, monitoring and enforcement of effective ICs, the long-term stewardship procedures will be reviewed and IC Plans developed. The IC Plans (or modified O&M Plans) will require regular inspection of ICs

at the Site. The plans should include the following: a schedule for Site inspections; property owner interviews to assure a consistent method for notifying them of the restrictions and exact locations of contamination to assure long-term stewardship of the property is maintained; MPCA notifications; Title Searches; and a Site status checklist. Reporting should be included in the Annual Monitoring Reports prepared by the Responsible Parties. This IC Plan should also include a comprehensive figure that identifies the types of ICs present on each parcel. The Annual Monitoring Reports should include updated IC figures as appropriate.

**Follow-up Actions Required**: Long-term protectiveness at the Site requires compliance with ICs to assure the remedy continues to function as intended. To help assure effective ICs have been implemented and proper maintenance, monitoring, enforcement and long-term stewardship of the ICs are maintained, IC Plans should be submitted by the RPs for review and approval by MPCA after consultation with EPA.

## VI.6. Site Inspection

A Site inspection was conducted on October 28, 2009, as a part of the five-year review process. In attendance were representatives for BN, the City, EPA, the MPCA, and Bay West Inc. Copies of the completed Site inspection checklist forms are presented in **Attachment F** and select photographs are presented in **Attachment G**.

### VI.6.1. Waite Park Wells

A visual inspection of the municipal water treatment building and grounds (water treatment compound) and interview with Mr. Bill Schluenz, the Public Works Director, were completed as a part of the Site inspection. The municipal wells (1, 3, 4, and 5) are housed in separate brick buildings within the water treatment compound. These buildings were not inspected. The treatment facility constructed in 2002 was operational. The former treatment facility remains within the water treatment compound but is no longer operational. The current and former treatment facilities and well pump houses are all located within a secured fenced area with an automatic gate and alarm system. A photograph of the west side of the current treatment facility is included in **Attachment G, Photograph 1**.

According to Mr. Schluenz, construction of Waite Avenue North, a four lane road, was completed in early 2009, which is located to the east of the water treatment compound (**Attachment A**). The newly constructed section of road runs from 3rd Street North to 8th Street North. The driveway entrance to the water treatment compound is now located on the west side of Waite Avenue North, less than ¼ mile north of the intersection of 3rd Street North and Waite Avenue North.

During inspection of the water treatment compound, three containment/bermed areas were noted and are described below. According to Mr. Schluenz, the containment/bermed areas were constructed to contain impacted soils removed during the construction of the 2002 water treatment plant and Waite Avenue North. These containment/bermed areas were constructed under the MPCA Voluntary Investigation and Cleanup (VIC) program. Information on the construction of the containment/berm areas was not available in the Site Response Section files.

- Containment/bermed area cell located within the water treatment compound. The containment cell inside the fenced in area appeared to be in good maintenance, as shown in **Attachment G**, **Photograph 2.**
- Containment/bermed area located on the east side of Waite Avenue North. Erosion runnels were noted on the west side and it appears that no cover material or topsoil was added to cover the bermed soils. These features are shown in **Attachment G, Photograph 3** through **7.**
- Containment/bermed area located within a fence, west of the water treatment compound and east of the BN containment cell (**Attachment A**). This area was overgrown with brush and does not appear to be maintained.

On January 14, 2002, RETEC sent a letter to the City containing an agreement for the transfer of ownership of BN monitoring wells: MPCA-13D (Unique ID #413608), MPCA-3D (Unique ID #45781) and ERT-26D (Unique ID #440158). However, a signed copy of this letter was not found. Mr. Schluenz does not recall the transfer of ownership of these wells. Therefore, it is unknown if the transfer was properly completed. During the Site inspection, ERT-26D and MPCA-3D could not be located. Well MPCA-13D was present on the north side of 4th Avenue North, the former access road to the treatment facility. Well MPCA-13D had no bumper posts and had a slightly damaged cap as shown in **Attachment G, Photograph 8**. These wells are included on **Table 3**.

**Table 3: BN and WPWS Well Summary Table**

| Monitoring Well Number | Located on historical figures? (yes/no) | Present/Found (yes/no) | Additional notes from Site Inspection |
|---|---|---|---|
| **BN Containment Cell Monitoring Wells** | | | |
| MW-33 | yes | yes | Recommend protective posts as it is near road. |
| NW-3S | yes | yes | Recommend protective posts as it is near road. |
| MW-28 | yes | yes | |
| MW-34 | yes | yes | |
| January 14, 2002 Letter. Unsigned agreement between BN and City regarding transfer of ownership to City of Waite Park | | | |
| MPCA-3D | no | no | Unique ID #457281 |
| MPCA-13D | yes | yes | Unique ID #413608. See Photograph 8. Recommend protective posts as it is near road. |
| ERT-26D | no | no | Unique ID #440158 |
| **Waite Park Water Supply Wells - no inspection performed. Wells inside well houses.** | | | |
| Well 1 | | | |
| Well 3 | | | |
| Well 4 | | | |
| Well 5 | | | |

### VI.6.2. EM OU1

The EM OU1 Site inspection included a walk-through of the Site and a visual inspection of the monitoring wells, including inspection of former well locations to check for proper abandonment. The locations of the monitoring wells are shown on AMR figures included in **Attachment C2.** A fence surrounds the perimeter of the south side of the foundry building. Most of the monitoring wells are located within the fenced area. The remaining wells are located on the north side of the facility adjacent to property owned by North Tier Landco LLC and the City of St Cloud Fire Department. A few wells are also located in the industrial area to the east of the EM Site.

**Table 4** presents a summary of the wells on the AMR figures and those found during the Site inspection along with their condition. As shown in the summary table, discrepancies exist in the AMRs reporting of existing wells, abandoned wells and well locations. In addition, the Site inspection revealed the presence of unmarked wells, including wells that were sheared off/not properly abandoned. See **Attachment G, Photographs 9** through **14,** with corresponding detail provided in **Table 4.**

**Table 4: EM Well Summary Table**

| Monitoring Well Number | Located on historical figures? (yes/no) | Figure identified as abandoned (A) or operational (O) | Present / Found (yes/no) | Appears Properly Abandoned (yes/no) | Additional notes from Site Inspection |
|---|---|---|---|---|---|
| EM1S | yes | A | no | yes | |
| EM2S | yes | A | no | yes | |
| EM3D | yes | O | yes | | |
| EM4S | yes | O | yes | | Recommend protective posts be installed around EM4S as it is adjacent to the on-site roads. See Photograph 10. |
| EM7S | yes | A | no | yes | |
| EM8S | yes | O | yes | | |
| EM8D | yes | O | yes | | |
| EM9S | yes | O | yes | | |
| EM9M | yes | O | yes | | |
| EM10S | yes | O | yes | | |
| EM18 | yes | A | no | yes | |
| EM20S | yes | O | no | | This well was identified on site figures but could not be located in the field. |
| EM20D | yes | O | yes | | The location of EM20D should be reevaluated. It does not appear to be located in the correct position on the site figure. |

| | | | | | |
|---|---|---|---|---|---|
| EM21D | yes | O | yes | | |
| EM22D | yes | O | yes | | |
| EM24D | yes | O | yes | | |
| EM35S | yes | A | no | yes | |
| EM36S | yes | A | no | yes | |
| EM37D | yes | A | no | yes | |
| EM38D | yes | A | no | yes | |
| EM39S | yes | A | yes | no | Two sheared off wells were found in this area - see Photographs 11, 12, & 13. |
| EM40S | yes | O | yes | | This well was found approximately 100 yards north of location specified on Site figures. |
| EM40D | yes | O | yes | | This well was found approximately 100 yards north of location specified on Site figures. |
| EM41S | yes | A | no | yes | |
| PCA5D | yes | A | | | |
| PCA6D | yes | A | no | yes | |
| PCA16S | yes | A | no | yes | |
| PW1 | yes | O | yes | | |
| PW2 | yes | A | no | yes | |
| PW3 | yes | O | yes | | |
| NW10 | yes | O | yes | | |
| NW2S | yes | O | yes | | |
| NW2D | yes | O | yes | | |
| P2 | no | | yes | | This well was north of former EM7S location but was not identified on site figures. |
| P3 | no | | | | This well was north of former EM7S location but was not identified on site figures. Photographs 8 & 9. |
| unlabeled well | no | | yes | | This well was east of former EM37D but not identified on site figures. |
| Source: Figure 2 Site Map, Former Electric Machinery dated 1/18/2006 | | | | | |

### VI.6.3. BN OU2

The BN OU2 Site inspection included a walk-through of the containment cell, an inspection of existing monitoring wells, and a brief visual inspection of the remainder of the BN OU2. An IC

Evaluation was performed separately from this five year review and is included as **Attachment** E.

**Area E Containment Cell**

The Site Inspection Checklist for the containment cell is included in **Attachment F.** The following is a brief summary of the inspection. The Area E containment cell is fenced with a locked gate on the west side along 4th Avenue North. There was no signage on the fencing or near the containment cell perimeter. A section of the fence on the northeast corner of the containment cell was damaged, likely due to the yard waste stockpiling activities adjacent to the containment cell fence line. A view of the east fence line of the containment cell and the damage due to the yard waste is provided in **Attachment G, Photograph 15**. Repairs to the fence noted since the last five year review are shown in **Attachment G, Photograph 16**.

The road that runs along the west and north sides of the containment cell, 4th Avenue North, was formerly the main access road to the City water treatment facility. The road is now barricaded at the northeast corner of the containment cell, but is still maintained along the west and north edges of the containment cell. On the northeast end of the road, between the road and the containment area fence, there is ponding of water present; however, the ponding did not encroach into the fenced area of the containment cell.

There is a sump and lysimeter located along the west-central portion of the containment cell at the entrance gate along 4th Avenue North. Both apparatuses were covered and sufficiently locked for security (**Attachment G, Photographs 17** and **18).** Three passive polyvinyl chloride (PVC) vent pipes were observed along the top of the containment cell. A view of the top of the containment cell and the PVC vents, facing west, is provided in **Attachment G, Photograph 19**. Two black PVC pipes were located on the east and west sidewalls of the containment cell which appeared to slope inwards towards the cell rather than drain outward.

The surface of the containment cell appeared to be in good maintenance with the exception of a few items. A five- to six-inch-diameter animal burrow hole was present on the east side of the cell, about halfway between the bench and the top of the containment cell (**Attachment G, Photograph 20)**. A few wheel ruts and areas of thin vegetation were also observed predominantly on the northwest and southwest corners of the benches (**Attachment G, Photograph 21)**. In the southeast corner along the fence, there was a minor amount of trash and debris.

There are four monitoring wells surrounding the containment cell: MW-33, NW-3S, MW-28, and MW-34 (**Table 3**). The four wells appeared to be in good maintenance. However, well MW-33 does not have bumper posts and is adjacent to 4th Avenue North. Also, MW-28 is at risk for possible damage from the yard waste stockpiling activities that are taking place just to the east of the containment cell fence line.

**Area A, River Bend Park**
River Bend Park is former BN-owned property, which has been developed into park and baseball fields by the City. The area is bordered by 3rd Street North to the south, 10th Avenue North to the east, the Sauk River to the west, and the BN railroad spur to the north.

In the northeastern corner of Area A, in the forested area along the river, a stockpile of unidentified material was noted between the disc golf course hole labeled number nine and the railroad bridge. It appeared to be soil scraped up from the surrounding area and various debris including roofing materials, broken concrete, railroad ballast, quarry debris. It appeared to have been constructed with heavy equipment such as a skid loader, indicated by the tracks on and near the stockpile formation (**Attachment G, Photograph 22** through **24).**

An additional unidentified stockpile was discovered near the maintenance shed on the northeast corner of Area A, north of the baseball fields. It appears that the stockpile has been used by youths as a bicycle obstacle, due to the presence of shaped jumps and tire tracks. The stockpile contained soil, broken concrete, trash, scrap metal, yard waste, and railroad debris (**Attachment G, Photographs 25** through **28**).

According to Mr. Schluenz, the stockpiled material has been tested by Braun Intertec Environmental and was found to not contain hazardous materials. A copy of the results was not available for review.

### VI.7. Interview Record

Representatives of the City, Grede, MDH, and MCES were contacted for an interview as shown on the interview documentation form in **Attachment H**. Two interviews/responses were granted, one from the City Public Works Director and a second from the MDH District Engineer. A summary of these interviews is also included in **Attachment H**. In summary, there were no issues raised, and the interviewers felt adequate information was provided to the residents informing them of the Site issues. The City Public Works Director requested a copy of the completed Five-Year Review.

## VII. TECHNICAL ASSESSMENT

### VII.1. Question A: Is the remedy functioning as intended by the decision documents?

The review of documents, ARARs and TBCs, and results of the Site inspection indicate that "yes" the groundwater remedy and the containment cell remedy for the WPW and the BN Site, respectively, are functioning as intended, with the exceptions noted below, and are currently protective of human health and the environment in the short term. Although EM OU1 is no longer pumping and treating contaminated groundwater, EM groundwater is being captured and treated by the City municipal wells.

#### VII.1.1. Waite Park Wells

The City continues to pump groundwater from the municipal wells located in the wellfield and treat the water using an aeration tower prior to discharge for human consumption. The City monitors and reports to the MDH periodically. In addition, the City results are complied and reported in the EM AMRs.

According to the 2008 AMR, the 2008 VOC concentrations from influent samples (Sample port S-1), prior to treatment, are consistent in magnitude with concentrations from 2005, 2006, and 2007 with a general decreasing trend since 2006. While total pumping was similar to previous years, the pumping from City Well No. 5 in 2008 did not increase as much as in past years and was similar to the pumping in 2007. The water samples from sampling port S-2, after the air stripping treatment, had no detection of VOCs in 2008; there were no detections of VOCs in 2005, 2006, or 2007. The samples from sampling port S-3, after the water is chlorinated, had no VOCs except for bromodichloromethane, chlorodibromomethane, chloroform, and chloromethane, which are commonly associated with chlorination of municipal water supplies.

The RA is effective and protective, because monitoring indicates the treated drinking water concentrations remain below the applicable drinking water criteria, and because the groundwater plume is contained. The wells and treatment plant have a high level of security with fence and locking systems. The zoning of the EM OU1 Site, the BN OU2 Site, and the immediate area upgradient of the wellfield is commercial, and businesses are required by ordinance to use municipal water, although there is no specific ordinance to prevent installation of a well. The City has also implemented a Wellhead Protection Plan which describes actions to protect the aquifer from other contamination sources, and specifically advocates continuing remedial measures at EM and BN to protect and restore the aquifer that is the City's only water supply.

### VII.1.2. EM OU1

The remedy implemented at the EM OU1 Site consisted of groundwater removal, treatment, and discharge. Groundwater pumping was performed for over 10 years from the shallow aquifer before it was discontinued in April 2001 as part of a test shut down. The discharge had reached asymptotic levels of VOCs, although the concentrations of a few VOC compounds were still over their MCLs. Pumping well PW-1 and the Soil Vapor Extraction System reached points of diminishing returns and were also shut down. Therefore, ROD Performance standards for the cleanup of the aquifer at the EM Site are not being met via the originally selected groundwater pump and treat remedial action; however, the EM groundwater is being captured and treated by the City municipal well treatment system.

The VOC concentrations continue to fluctuate at the monitoring wells, and some contaminant concentrations remain above the MCLs; although, the VOC concentrations are generally lower than the historical high concentrations. Several years of monitoring are needed to assure that there will be no more serious contamination surges.

In addition, shutting down the treatment systems does not support the City’s Wellhead Protection Plan to protect and restore the aquifer that is the City's only water supply. Although EM OU1 is no longer pumping and treating contaminated groundwater, EM groundwater is being captured and treated by the City municipal wells and treatment plant.

Investigation activities indicated that need for a Tier 3 Vapor Intrusion Assessment. In addition, the Site inspection indicated that an EM OU1 monitoring well survey and repair, replacement, and abandonment of damaged wells need to be completed.

Access at the EM Site is restricted with a well-kept fence with signs. The lack of restrictive covenants with enforcement language does not appear to be affecting current protectiveness at the Site, but could affect future protectiveness.

The current ICs generally do not provide a consistent method for notifying landowners or interested parties of the restrictions or the exact locations of contamination which could affect the long-term stewardship of the properties. An IC Plan should be developed and implemented to monitor the effectiveness of ICs and to assure the remedy remains protective of human health and the environment and long-term stewardship procedures are established.

#### VII.1.3. BN OU2

At the BN containment cell, leachate removal from the collection system and groundwater monitoring around the cell is ongoing. Continuing maintenance and monitoring of the cap will maintain the effectiveness of the cell RA. Groundwater monitoring at other areas of the BN Site has been discontinued, and the monitoring wells were abandoned as approved by MPCA staff.

The remedy is performing as intended; however, required ICs have not yet been implemented. Portions of the Site were not remediated to unrestricted use levels, and other areas were remediated to allow unrestricted access to the surface soils. The lack restrictive covenants with enforcement language, and an IC Plan affect the future protectiveness at the Site. Although uncontaminated materials have been uncovered, uncontrolled excavation and stockpiling of materials that is occurring on properties not owned by the RPs has already occurred.

The current ICs generally do not provide a consistent method for notifying landowners or interested parties of the restrictions or the exact locations of contamination which could affect the long-term stewardship of the properties. An IC Plan should be developed and implemented to monitor the effectiveness of ICs and to assure the remedy remains protective of human health and the environment and long-term stewardship procedures are established.

### VII.2. Question B: Are the exposure assumptions, toxicity data, cleanup levels, and remedial action objectives (RAOs) used at the time of remedy selection still valid?

The answer to this question is “yes” in some cases and “no” in others where new target cleanup levels have been developed as discussed below.

The EM OU1 and BN OU2 RAOs are still valid. No new exposure pathways have been identified. RALs were cited in the EM ROD as possible groundwater cleanup levels where no MCLs existed. Most MDH RALs have been replaced by promulgated HRLs. The MDH continues to evaluate and may revise or add HRLs, HBVs, and RAAs. Similarly, federal MCLs continue to be promulgated or revised as necessary. In addition, the dechlorination occurring at the EM Site may result in contaminants which exceed MCLs, HRLs, or HBVs but which do not have established Target Cleanup Levels. The EM OU1 ROD and updated cleanup standards are presented in **Table 5**.

| Table 5. EM Site ROD Target Cleanup Levels and New Standards | | |
|---|---|---|
| **Compound** | **ROD Target Cleanup Level (ug/L)** | **January 2010 Standards* (ug/L)** |
| Tetrachloroethene (PCE) | 6.6 (RAL) (6.7 in text) | 5 (MCL; HRL) |
| Trichloroethene (TCE) | 5 (MCL) | 5 (MCL; HRL) |
| 1,1,1-Trichloroethane | 200 (MCL) | 9,000 (HRL); 200 (MCL) |
| 1 ,2-Dichloroethene | 70 (RAL) | -- |
| Cis- 1 ,2-Dichloroethene (cis-l,2,-DCE) | -- | 50 (HRL); 70 (MCL) |
| Trans- 1 ,2-Dichloroethene (trans- 1,2-DCE) | -- | 100 (HRL; MCL) |
| 1,1-Dichloroethane (1,1-DCA) | 810 (RAL) | 100 (RAA) |

* Obtained from MDH and USEPA websites in January 2010
HRL – Health Risk Limit
MCL – Maximum Contaminant Level
RAA – Risk Assessment Advice

Sample results, not only for the specific compounds listed in the EM ROD but also for all detected contaminants, from both the municipal wells and EM wells, should be screened against existing ARARs and TBCs that may affect future protectiveness evaluations. If the estimated risk has increased, a determination should be made whether the new estimated risk is acceptable; i.e., within the range of $10^{-4}$ to $10^{-6}$ for carcinogenic risk and the hazard index is below 1 for non-carcinogenic effects. If the estimated risk is not within the range, further evaluation of cleanup goals or additional RA will be needed.

**Land Use**

In general, ownership has changed but not land use for the WPW Site. The current conditions and cleanup levels do not allow for unrestricted land use/unrestricted exposure. The Site Inspection performed for this Five-Year Review identified several containment cells/berms and stockpiles that are possible uncontrolled exposure points indicating concerns regarding the long-term stewardship of the properties not owned or occupied by the RPs. As summarized in Section VI.5, the current ICs generally do not provide a consistent method for notifying landowners or interested parties of the restrictions or the exact locations of contamination which could affect the long-term stewardship of the properties.

The IC recommendations include: consistently recording easements and/or deed restrictions that include enforcement language; and the preparation and implementation of an IC Plan to assure long-term protectiveness and long-term stewardship is maintained at the Site. Long-term protectiveness requires compliance with use restrictions to assure the remedy continues to function as intended.

### VII.3. Question C: Has any other information come to light that could call into question the protectiveness of the remedy?

The answer to this question is "yes". In 2008, Barr completed an Investigation and Groundwater Monitoring Report (Barr, 2008). The results of the investigation indicated that further work needs to be completed for the vapor intrusion pathway including a building survey and air

quality survey. However, In a January 20, 2009 letter to the MPCA, the current land owners have objected to the Tier 3 building-specific soil vapor investigation stating that *it is neither necessary nor desirable for the following reasons:*

- *That the portion of the building, under which elevated soil vapors exist, contains an impervious 10" concrete floor;*
- *The portion of the building under which elevated soil vapors exist functions as a casting storage and shipping/receiving area, which is very sparsely populated;*
- *The building, as a whole, has a high number of air changes per hour due to the presence of several major dust collection systems controlling particulate emissions from the foundry operations;*
- *There is a higher density of dust collection equipment in the western half of the facility, which promotes a general east-to-west air flow the entire building;*
- *There have been no health-related issues raised concerning soil vapor exposure in the 14 years Grede has owned and operated the facility;*
- *The known groundwater contamination at the Site has generally been decreasing over time; and*
- *A formal Tier 3 building-specific soil vapor investigation could be disruptive to Grede operations and time-consuming for select Grede personnel.*

As stated in Question B, The Site Inspection performed for this Five-Year Review identified several containment cells/berms and stockpiles that are possible uncontrolled exposure points indicating concerns regarding the long-term stewardship of the properties not owned or occupied by the RPs. The current ICs generally do not provide a consistent method for notifying landowners or interested parties of the restrictions or the exact locations of contamination which would likely affect the long-term stewardship of the properties.

### VII.4. Technical Assessment Summary

Question A: Is the remedy functioning as intended by the decision documents? The review of documents, ARARs and TBCs, and results of the Site inspection indicate that "yes" the groundwater remedy and the containment cell remedy for the WPW and the BN Site, respectively, are functioning as intended. Although EM OU1 is no longer pumping and treating contaminated groundwater, EM groundwater is being captured and treated by the City municipal wells.

Long-term protectiveness requires maintenance of the remedy and compliance with the ICs. Compliance with ICs will be accomplished by ensuring effective ICs are in-place and by planning for long-term stewardship which includes maintaining, monitoring and enforcing effective ICs as well as maintaining the Site remedy components. A plan for long-term stewardship of the Site is needed to assure effective ICs are maintained, monitored and enforced. Upon request of MPCA, the RPs will submit IC Plans to plan for additional IC activities.

Question B: Are the exposure assumptions, toxicity data, cleanup levels, and remedial action objectives (RAOs) used at the time of remedy selection still valid? The answer to this question is "yes" in some cases and "no" in others where new target cleanup levels have been developed.

The new levels should be used to in long-term groundwater and drinking water monitoring reports.

Question C: Has any other information come to light that could call into question the protectiveness of the remedy? The answer to this question is "yes". For EM OU1, further work needs to be completed for the vapor intrusion pathway including a building survey and air quality survey. In addition, long-term protectiveness requires compliance with use restrictions to assure the remedy continues to function as intended.

## VIII. ISSUES

| Table 6. Issues | Affects Current Protectiveness (Y/N) | Affects Future Protectiveness (Y/N) |
|---|---|---|
| **WPW** | | |
| 1. Residual soil contamination on the City owned property.<br>• During the construction of the new City water treatment plant in 2001 and Waite Avenue North in 2009, impacted or potentially impacted soil from the former BN Site was excavated and placed in containment cells or berms in at least three separate areas. This was reportedly completed under the MPCA VIC program. Two of these areas do not appear to be properly maintained.<br>• Former Area A. Two stockpiled soil areas were identified in this area possibly containing historical BN Site debris that could contain COCs. | **N** | **Y** |
| 2. There are no measures in place to monitor effectiveness of existing ICs including restrictive covenants as well as the long-term stewardship of the properties. | **N** | **Y** |
| **EM OU1** | | |
| 1. There are no measures in place to monitor effectiveness of existing ICs including restrictive covenants as well as the long-term stewardship of the properties. | **N** | **Y** |
| 2. Residual soil contamination remains on the EM OU1 Site. | **N** | **Y** |
| 3. Results of the vapor intrusion investigation indicated that further work needs to be completed for the vapor intrusion pathway including a building survey and air quality survey. | **Y** | **Y** |
| **BN OU2** | | |
| 1. Residual soil contamination remains on the BN OU2 Site. | **N** | **Y** |
| 2. There are no measures in place to monitor effectiveness of existing ICs including existing restrictive covenants as well as the long-term stewardship of the properties. | **N** | **Y** |

Routine operation and maintenance activities are needed on the Site. These issues are as follows.

- For the Waite Park water supply wells, three monitoring wells were reportedly transferred from BN to the City. Only one well was found during the Site inspection. The City has no records of transfer or abandonment. These wells should be found and properly abandoned.
- Discrepancies exist in the EM OU1 AMRs reporting of existing wells, abandoned wells and well locations. These discrepancies should be resolved. In addition, the Site inspection revealed the presence of unmarked wells, including wells that were sheared off/not properly abandoned. These wells should be properly abandoned.
- There are minor containment cell maintenance issues in BN OU2, including: ruts from maintenance vehicles, small animal burrow holes, damage to fence pole from city stockpiling of tree/yard waste activities adjacent to the cell, potential for damage to monitoring well MW-28 from adjacent land owner activities, and no protective posts on monitoring well MW-33 which is adjacent to a roadway outside of containment cell fence. Related improvements should be made.

## IX. RECOMMENDATIONS AND FOLLOW-UP ACTIONS

Recommendations and follow-up actions re presented in **Table7**. Each number in **Table 7** corresponds to the issue identified in **Table 6**.

**Table 7: Recommendations and Follow-up Actions**

| | | | | | Affects Protectiveness (Y/N) | |
|---|---|---|---|---|---|---|
| **Issue** | **Recommendations and Follow-up Actions** | **Party Responsible** | **Oversight Agency** | **Milestone Date** | **Current** | **Future** |
| **WPW** | | | | | | |
| 1 | Determine and implement a protective, long-term response action for site contaminated soils including consideration of required ICs. | BN RPs | MPCA | 5/2010 | **N** | **Y** |
| 2 | Develop and implement an IC Plan. | BN RPs | MPCA | 12/2011 | **N** | **Y** |
| **EM OU1** | | | | | | |
| 1 | Develop and implement an IC Plan. | EM RPs | MPCA | 12/2011 | **N** | **Y** |

| Table 7: Recommendations and Follow-up Actions | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | Affects Protectiveness (Y/N) | |
| **Issue** | **Recommendations and Follow-up Actions** | **Party Responsible** | **Oversight Agency** | **Milestone Date** | **Current** | **Future** |
| 2 | Determine and implement a protective, long-term response action for site contaminated soils including consideration of required ICs. | EM RPs | MPCA | 12/2010 | **N** | **Y** |
| 3 | Complete an MPCA Tier 3 vapor intrusion assessment as recommended in the vapor intrusion investigation. | EM RPs | MPCA | 4/2011 | **Y** | **Y** |
| **BN OU2** | | | | | | |
| 1 | Determine and implement a protective, long-term response action for site contaminated soils including consideration of required ICs. | BN RPs | MPCA | 12/2010 | **N** | **Y** |
| 2 | Develop and Implement an IC Plan (see also Recommendation 8 from 3rd Five-Year Review) | BN RPs | MPCA | 12/2011 | **N** | **Y** |

## X. PROTECTIVENESS STATEMENT(S)

The groundwater remedy and the containment cell remedy for WPW and the BN OU2 Site, respectively, are functioning as intended and are currently protective of human health and the environment in the short term.

Long-term protectiveness requires maintenance of the remedy and compliance with the ICs. Compliance with ICs will be accomplished by ensuring effective ICs are in-place and by planning for long-term stewardship which includes maintaining, monitoring and enforcing effective ICs as well as maintaining the Site remedy components. A plan for long-term stewardship of the Site is needed to assure effective ICs are maintained, monitored and enforced. Upon request of MPCA, the RPs will submit IC Plans to plan for additional IC activities.

A protectiveness determination of the remedy at the EM OU1 Site cannot be made at this time until further information is obtained. Further information will be obtained by taking the

following action: Complete a Tier 3 Vapor Intrusion Assessment including a building and air quality survey, and take RA appropriate to the results.

The Site-wide protectiveness determination is deferred because further information needs to be obtained at the EM OU1 Site, as described above. This information gathering and potential RA are anticipated to take two years, at which time a protectiveness determination will be made in an addendum to this report. In addition to the above RA as a component of long-term protectiveness, long-term protectiveness will be achieved at the Waite Park Wells Site when:

- groundwater cleanup goals have been achieved;
- the Site contaminated soils are properly addressed;
- the remaining ICs are put in place; and
- IC Plans have been developed and recommendations in the plans have been implemented.

## XI. NEXT REVIEW

Hazardous substances, pollutants, or contaminants will remain at the Site that will not allow for unlimited use or unrestricted exposure. EPA or the MPCA, if delegated to do so by EPA, will conduct another Five-Year Review five years from the date of this Review. In addition, an addendum to this Five-Year Review will be issued within two years of the date of this Review.

# Attachment A

# Site Maps

SAUK RIVER

EM INTERNATIONAL

EM SITE

ANDERSON AVENUE

MUNICIPAL WELL HOUSE

ERT-15S
ERT-16S
ERT-14S
MW-A1
ERT-30S
ERT-20S
ERT-A1
AREA A
MPCA-7S
10th AVENUE
ERT-29S
ERT-B1
MPCA-14S
MPCA-14D
AREA B
ERT-B2
ERT-31
ERT-12S
ERT-23S
ERT-C1
AREA C
ERT-D1
ERT-11S
AREA D
ERT-1S
ERT-1D
MW-33
MW-3S
MW-3
MPCA-13S
MPCA-13D
ERT-28S
CONTAINMENT CELL
MW-28
AREA E
ERT-8D
MW-34
ERT-10S
AREA F
ERT-2S
ERT-G1
ERT-26S
ERT-26D
ERT-6D
MPCA-12S
MPCA-4S
MPCA-4D
MPCA-12D
ERT-7S
ERT-7D
ERT-4D
ERT-4S
ERT-25S
ERT-25D
AREA G
ERT-3D
ERT-3S
MPCA-3S
MPCA-3D
ERT-27S
ERT-19S
ERT-19D
MPCA-10S
MPCA-11D
MPCA-11S
AREA H
2nd AVENUE
3rd STREET
3rd STREET

LEGEND

- MW-1 — MONITORING WELLS TO BE SAMPLED SEMI-ANNUALLY
- MPCA-1 — MONITORING WELL
- ERT-C1 — ABANDONED WELL
- APPROXIMATE LOCATION OF CONTAINMENT CELL
- SITE BOUNDARY
- AREA BOUNDARIES

0 250 500 750 1000

1"=500'
APPROXIMATE

| NO | DRWN | DATE | REVISION | CHKD | DATE | APPVD | DATE |
|---|---|---|---|---|---|---|---|
| 6 | | | | | | | |
| 5 | | | | | | | |
| 4 | | | | | | | |
| 3 | | | | | | | |
| 2 | | | | | | | |
| 1 | | | | | | | |
| 0 | RLL | 03/20/96 | DRAFT | | | | |

REFERENCE DWG | DESCRIPTION

BURLINGTON NORTHERN SANTA FE
WAITE PARK CAR SHOP SITE
3-1648-000

This drawing is sent to you subject to return upon demand, with the understanding that it is not to be reproduced, copied or used, directly or indirectly, in any way detrimental to our interests. All rights reserved.

CURRENT DATE: 8/20/96 | CAD FILE | FIG2

CONTAINMENT CELL AND MONITORING WELL LOCATIONS

REMEDIATION TECHNOLOGIES INC

DRAWING NO. FIGURE 3-1 | REV 0

Map Scale 1:24,000

## Legend

- Burlington Northern Property Boundary
- Electric Machinery Property Boundary
- Waite Park Site Boundary

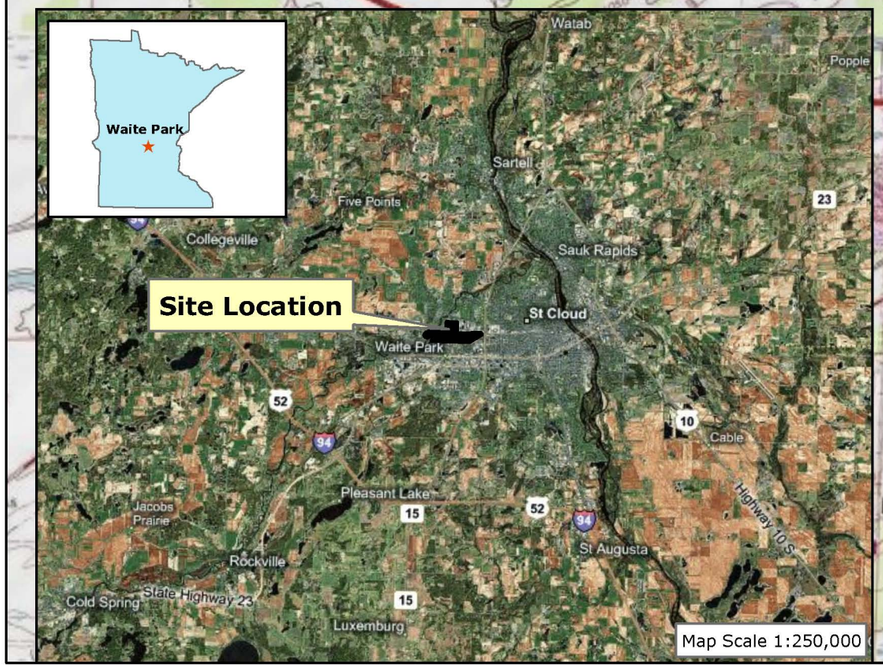
Sources:
2009 National Geographic Society
2009 Microsoft Virtual Earth Aerial

N

Electric Machinery

Waite Park Wells Site

Burlington Northern




| | | | |
|---|---|---|---|
| ENGR'G | | DATE | Bay West |
| DRAWN | T.P. | 12/11/09 | Customer-Focused Environmental & Industrial Solutions |
| REV. | 01 | 2/5/10 | |
| PROJECT NAME | WAITE PARK, MN | | |
| TITLE | SITE LOCATION MAP | | |
| PROJECT NO. | J090475 | SCALE AS SHOWN | FIGURE # 1 |

# Attachment B

# List of Documents Reviewed

# Attachment B List of Documents Reviewed

**WPW Site**

June 1, 2005. Third Five-Year Review Report, Waite Park Wells Site, MPCA.

December 13, 2006. Contingency Plan, Geotechnical Soil Borings for Infrastructure Improvements, Waite Park, Minnesota, Braun.

October 29, .2009. Fly Over Report produced for Bay West. Stearns County.

**BN Site**

1998. Explanation of Significant Differences for the July 14, 1994 Record of Decision, MPCA.

July 14, 1994. Record of Decision, Burlington Northern Car Shop Site, Waite Park, Minnesota, MPCA.

January 14, 2002. RETEC Letter to the City of Waite Park Regarding Proposed Transfer of Ownership of Monitoring Wells: MPCA-13D (Unique ID #413608), MPCA-3D (Unique ID #45781) and ERT-26D (Unique ID #440158).

May 2005. 2004 Annual Monitoring Report, Containment Cell Monitoring, Burlington Northern Waite Park Car Shops – Waite Park, Minnesota, RETEC.

January 2009. 2008 Annual Monitoring Report, Containment Cell Monitoring, Burlington Northern Waite Park Car Shops – Waite Park, Minnesota, AECOM.

May 29, 2007. Letter to Minnesota Pollution Control Agency, Response Letter to MPCA Comments on the 2006 Annual Containment Cell Monitoring Reports and Work Plan for Obtaining Information Requested – Burlington Northern Car Shop Waite Park Superfund Site (BN060-01648-355), RETEC Group, Inc.

**EM Site**

August 1988. Superfund Program Fact Sheet, Electric Machinery Site, St. Cloud, Ground Water Cleanup, MPCA

January 5, 1989. Record of Decision, Electric Machinery Site, St. Cloud, Minnesota, MPCA.

2006. Draft Declaration of Restrictions and Covenants, MPCA.

November 10, 2006. Draft Institutional Control Plan, MPCA.

November 3, 2006. Letter to Ms. Sheryl Filby, Barr Engineering Company RE: 2005 Annual Monitoring Report for the Electric Machinery Superfund Site, MPCA.

December, 2004. Annual Groundwater Monitoring Report, Electric Machinery Site, St. Cloud, Minnesota, Barr.

August 7, 2006. Historical Information Gatherers, Inc. Summary of Historical Information Search performed for Barr Engineering Co. on the Electric Machinery Site.

March 2006. 2005 Annual Groundwater Monitoring Report, Electric Machinery Site, St. Cloud, Minnesota, Barr.

March, 2007. 2006 Annual Groundwater Monitoring Report, Electric Machinery Site, St. Cloud, Minnesota, Barr.

January, 2008. 2007 Annual Groundwater Monitoring Report, Electric Machinery Site, St. Cloud, Minnesota, Barr.

March 13, 2008. 2007 Annual Groundwater Monitoring Report Addendum, Electric Machinery Site, St. Cloud, Minnesota, Barr.

November 20, 2008. 2008 Investigation and Groundwater Monitoring Report, Former Electric Machinery Site, St. Cloud, Minnesota, Barr.

April 24, 2009. 2008 Annual Groundwater Monitoring Report Addendum, Electric Machinery Site, St. Cloud, Minnesota, Barr.

December 15, 2009. 2009 Annual Groundwater Monitoring Report, Former Electric Machinery Site, Braun Intertec Corporation

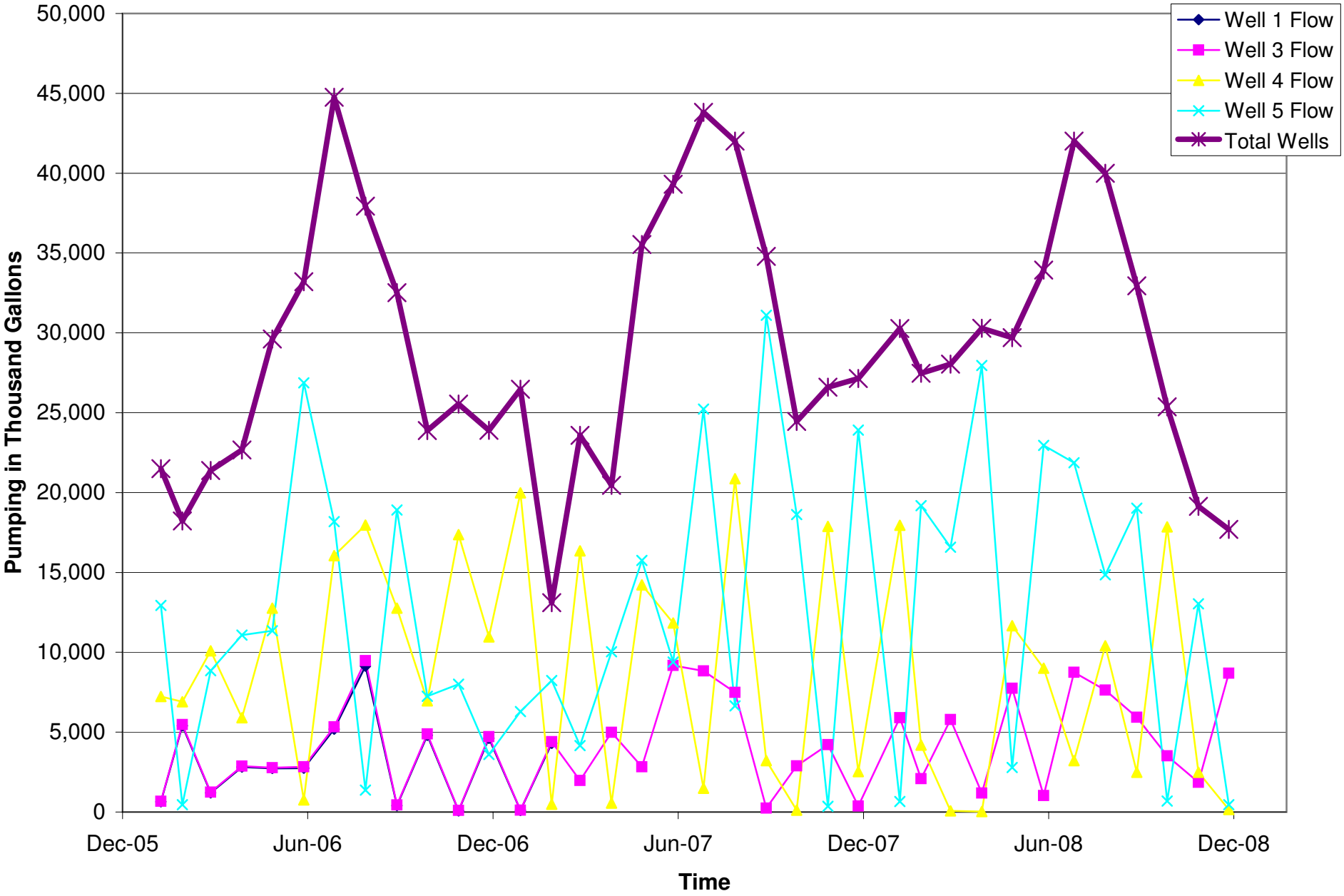
# Attachment C

# Historical Summary Data

# Attachment C-1

# WPWS Historical Summary Data

**Figure 20**
**2008 City of Waite Park Pumping**
**Former Electric Machinery Site**




3/16/2009 8:45 PM
P:\Mpls\23 MN\73\2373016\WorkFiles\2008\2008_AMR_Addendum\Daily Flow log 2008 summary.xls

**Figure 21**
**Total VOC Historical Concentrations**
**Waite Park Municipal Water Quality (S-1 Sample Port)**

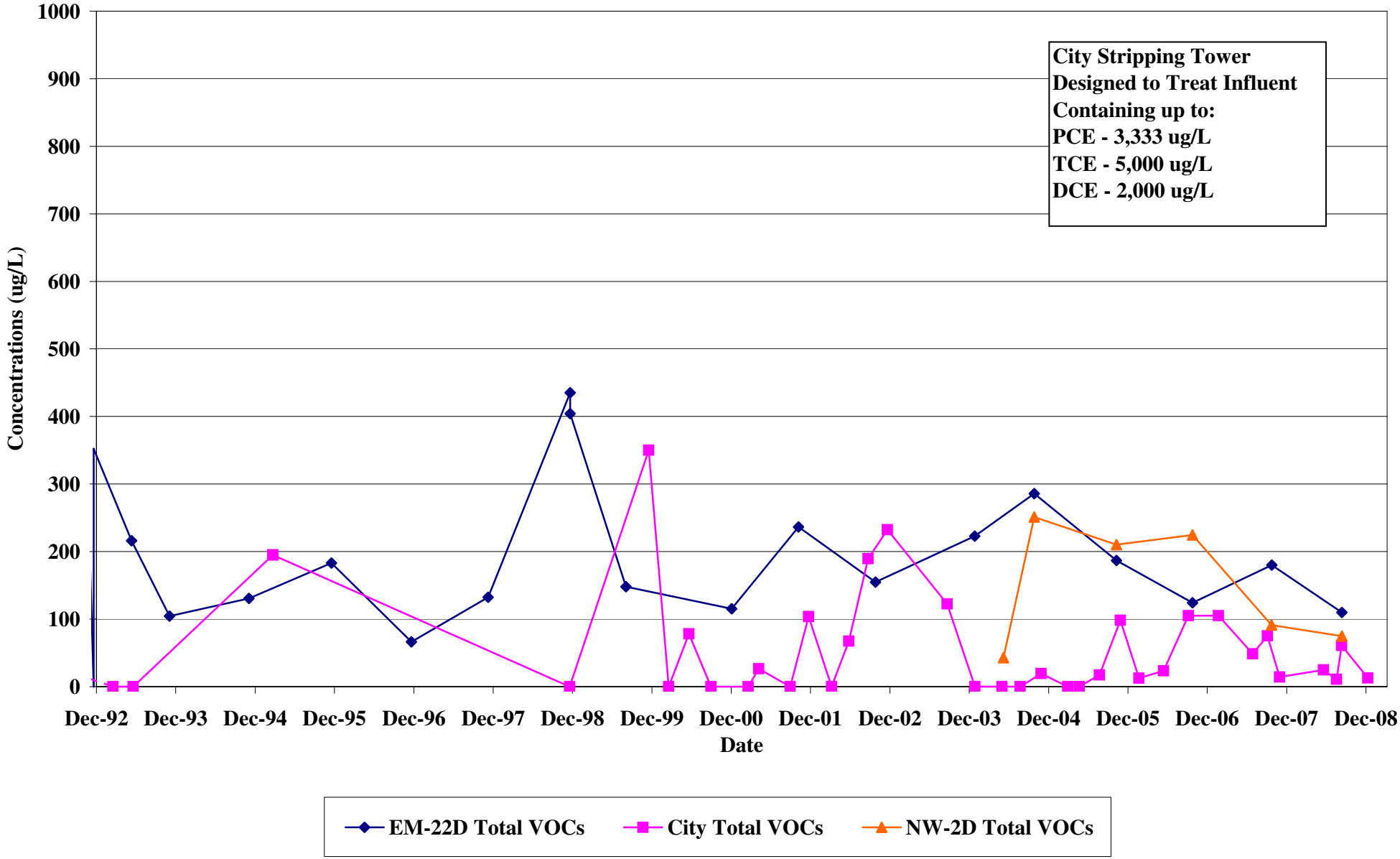



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**Figure 22**
**Waite Park Pumping Allocation 2004-2008**
**Former Electric Machinery Site**

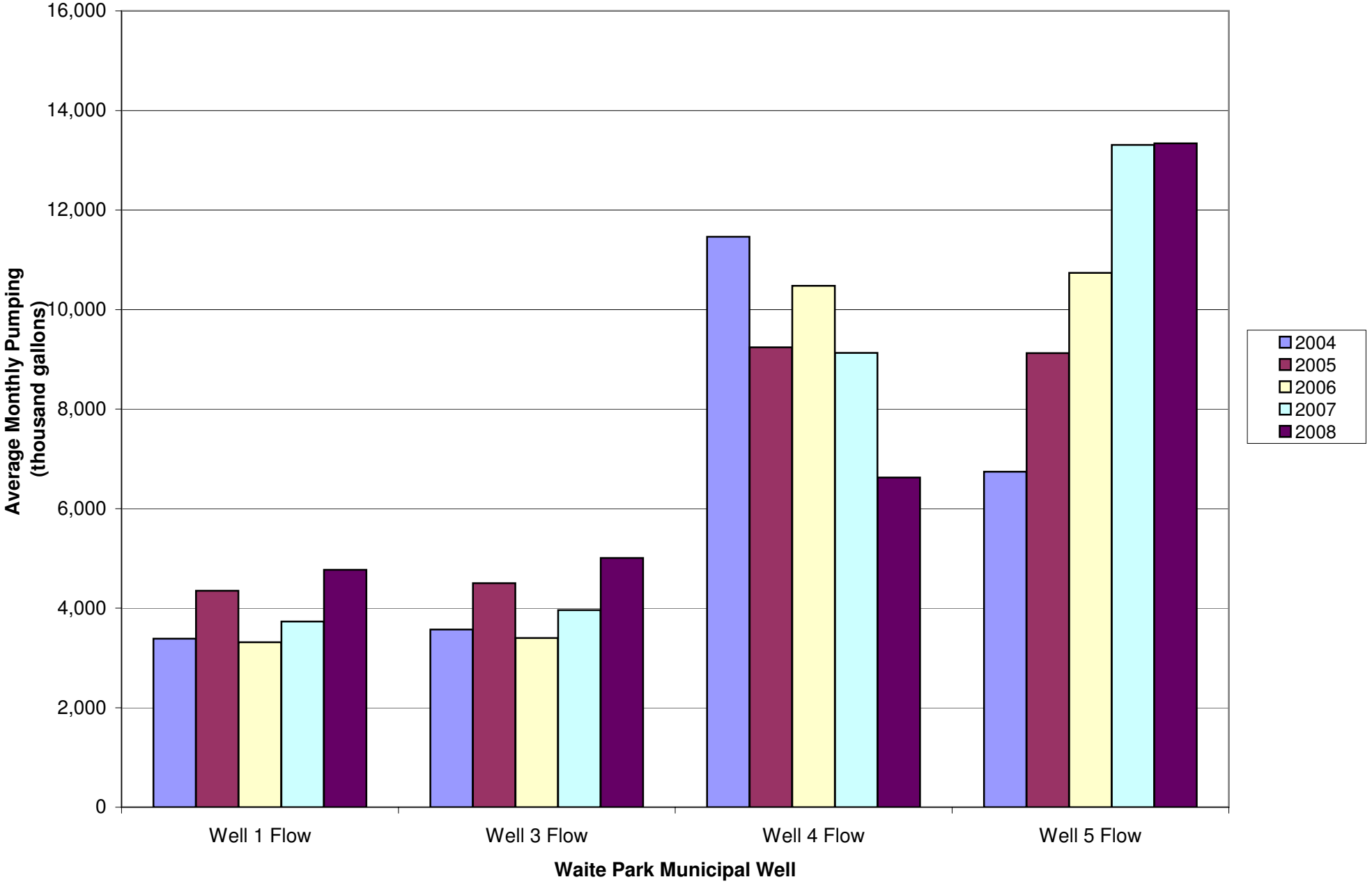


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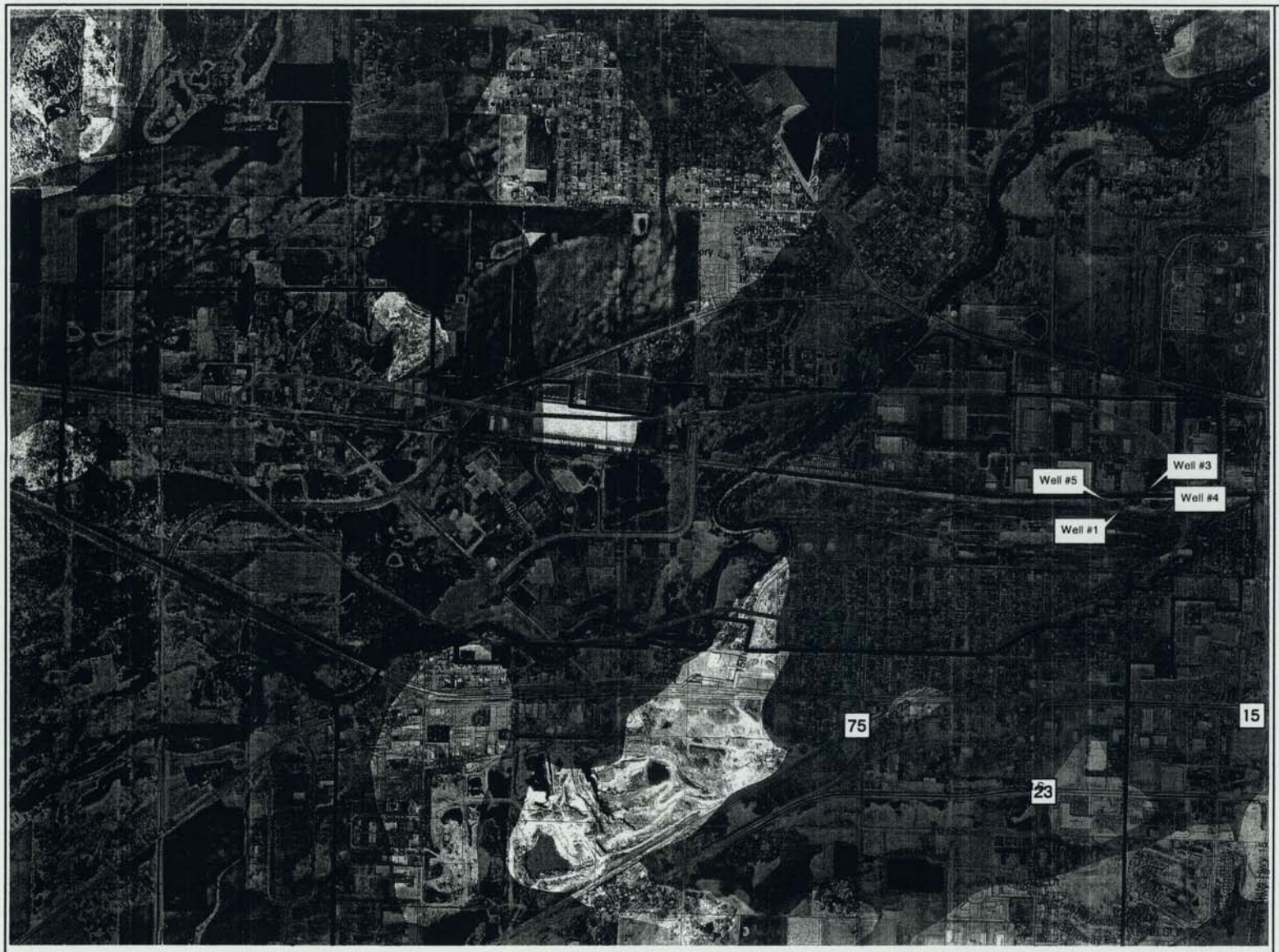
**Table 6**
**Water Quality Data**
**City of Waite Park Water**
**(concentrations in ug/L, unless noted otherwise)**

| Location | S1 | S1 | S1 | S1 | S2 | S2 | S2 | S2 | S3 | S3 | S3 | S3 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Date | 5/29/2008 | 7/28/2008 | 8/20/2008 | 12/16/2008 | 5/29/2008 | 7/28/2008 | 8/21/2008 | 12/16/2008 | 5/29/2008 | 7/28/2008 | 8/20/2008 | 12/16/2008 |
| | | | | | | | | | | | | |
| **Metals, mg/L** | | | | | | | | | | | | |
| **Iron** | **4.8** | **17** | **8.8** | **8.9** | -- | -- | -- | -- | <0.02 | <0.02 | <0.02 | <0.02 |
| **Manganese** | **0.48** | **0.55** | **0.48** | **0.54** | -- | -- | -- | -- | <0.01 | <0.01 | <0.01 | <0.01 |
| **VOCs** | | | | | | | | | | | | |
| **1,1,1,2-Tetrachloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1,1-Trichloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1,2,2-Tetrachloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1,2-Trichloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1-Dichloro-1-propene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1-Dichloroethane** | **2.0** | **1.3** | **6.8** | **1.2** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,1-Dichloroethylene** | <1.0 | <1.0 | **1.0** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2,3-Trichlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2,3-Trichloropropane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2,4-Trichlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2,4-Trimethylbenzene** | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 |
| **1,2-Dibromo-3-chloropropane** | <1.0 | <2.5 | <10 | <10 | <1.0 | <2.5 | <10 | <10 | <1.0 | <2.5 | <10 | <10 |
| **1,2-Dibromoethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2-Dichlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2-Dichloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2-Dichloroethylene, cis** | **2.7** | **1.3** | **8.0** | **1.5** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2-Dichloroethylene, trans** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,2-Dichloropropane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,3,5-Trimethylbenzene** | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 |
| **1,3-Dichloro-1-propene trans** | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 |
| **1,3-Dichloro-1-propene, cis** | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 |
| **1,3-Dichlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,3-Dichloropropane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **1,4-Dichlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **2,2-Dichloropropane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Acetone** | <15 | <15 | <15 | <15 | <15 | <15 | <15 | <15 | <15 | <15 | <15 | <15 |
| **Allyl chloride** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Benzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Bromobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Bromochloromethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Bromodichloromethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | **2.0** | **1.7** | **2.5** | **2.1** |
| **Bromoform** | <10 | <5.0 | <5.0 | <5.0 | <10 | <5.0 | <5.0 | <5.0 | <10 | <5.0 | <5.0 | <5.0 |
| **Bromomethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Butyl benzene** | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 |
| **Butylbenzene sec** | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 |
| **Butylbenzene tert-** | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 |
| **Carbon tetrachloride** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Chlorobenzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Chlorodibromomethane** | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | **3.6** | **1.8** | **2.4** | **2.2** |
| **Chloroethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Chloroform** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | **1.0** | **1.1** | **1.7** | **1.1** |
| **Chloromethane** | <1.0 | <1.0 | **1.5** | **1.0** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | **1.2** | **2.2** | <1.0 |
| **Chlorotoluene o-** | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 |
| **Chlorotoluene p-** | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 |
| **Cumene (isopropyl benzene)** | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 |
| **Cymene p- (Toluene isopropyl p-)** | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 |
| **Dibromomethane (methylene bromide)** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Dichlorodifluoromethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Dichlorofluoromethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Ethyl benzene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Ethyl ether** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Hexachlorobutadiene** | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 |
| **Methyl ethyl ketone** | <10 | <10 | <10 | <10 | <10 | <10 | <10 | <10 | <10 | <10 | <10 | <10 |

**Table 6**
**Water Quality Data**
**City of Waite Park Water**
**(concentrations in ug/L, unless noted otherwise)**

| Location<br>Date | S1<br>5/29/2008 | S1<br>7/28/2008 | S1<br>8/20/2008 | S1<br>12/16/2008 | S2<br>5/29/2008 | S2<br>7/28/2008 | S2<br>8/21/2008 | S2<br>12/16/2008 | S3<br>5/29/2008 | S3<br>7/28/2008 | S3<br>8/20/2008 | S3<br>12/16/2008 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |
| **Methyl isobutyl ketone** | <5.0 | <10 | <5.0 | <5.0 | <5.0 | <10 | <5.0 | <5.0 | <5.0 | <10 | <5.0 | <5.0 |
| **Methyl tertiary butyl ether (MTBE)** | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 |
| **Methylene chloride** | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 |
| **Naphthalene** | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 | <1.0 | <1.0 | <2.5 | <2.5 |
| **Propylbenzene** | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 | <1.0 | <2.5 | <2.5 | <2.5 |
| **Styrene** | <1.0 | <2.5 | <10 | <2.5 | <1.0 | <2.5 | <10 | <2.5 | <1.0 | <2.5 | <10 | <2.5 |
| **Tetrachloroethylene** | **5.2** | <2.0 | **17** | **2.2** | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 | <2.0 |
| **Tetrahydrofuran** | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 | <5.0 |
| **Toluene** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Trichloroethylene** | **9.3** | **3.7** | **21** | **4.4** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Trichlorofluoromethane** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Trichlorotrifluoroethane** | **6.1** | **4.7** | **5.4** | **3.0** | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 | <1.0 |
| **Vinyl chloride** | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 | <2.5 |
| **Xylene m & p** | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 |
| **Xylene o-** | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 | <1.0 | <1.0 | <2.5 | <1.0 |
| **Sum Volatile Organics** | **25** | **11** | **61** | **13** | ND | ND | ND | ND | **6.6** | **5.8** | **8.8** | **5.4** |

-- Not analyzed.
ND Not detected.




## Legend

- DWSMA
- 10 Year WHPA
- Waite Park Municipal Boundary
- Municipal Wells
- Parcels

**Pollution Sensitivity**

- Low
- Moderate
- High
- Very High

N
W E
S

Source: Stearns County Geologic Atlas and SEH

| | | | | |
|---|---|---|---|---|
| | Project Number AWAITE0007.00<br>DATE 11/21/02 sh | WELLHEAD PROTECTION PLAN<br>City of Waite Park, MN | Drinking Water Supply Management Area and Groundwater Pollution Sensitivity | Figure 1 |

# Attachment C-2

# EM Historical Summary Data

APPROXIMATE SITE BOUNDARY

EM24D

EM20S&D

EM40S&D
1034.47

EM2S

EM1S

EM3D

PW2

EM36S

EM39S

EM10S
1030.83

EM9S&M
1030.87

EM8S&D
1029.70

EM22D

EM37S&D

PW1

EM18

PW3

PCA16S

EM4S
1034.70

EM38S&D

EM7S

NW1D

EM35S

PCA6D

1034.00

1033.00

1032.00

1031.00

1030.00

1029.00

EM21D

NW2S&D

EM41S

PCA5D

N

100'± 0 200'±

SCALE: 1" = 200'±

DENOTES APPROXIMATE LOCATION OF MONITORING WELL (ELECTRIC MACHINERY)

DENOTES APPROXIMATE LOCATION OF MONITORING WELL (MPCA)

DENOTES APPROXIMATE LOCATION OF SEALED MONITORING WELL

GROUNDWATER CONTOUR ELEVATION (FT.)

1033.10 GROUNDWATER ELEVATION (FT.)

BRAUN INTERTEC
11001 Hampshire Avenue So.
Minneapolis, MN 55438
PH. (952) 995-2000
FAX (952) 995-2020

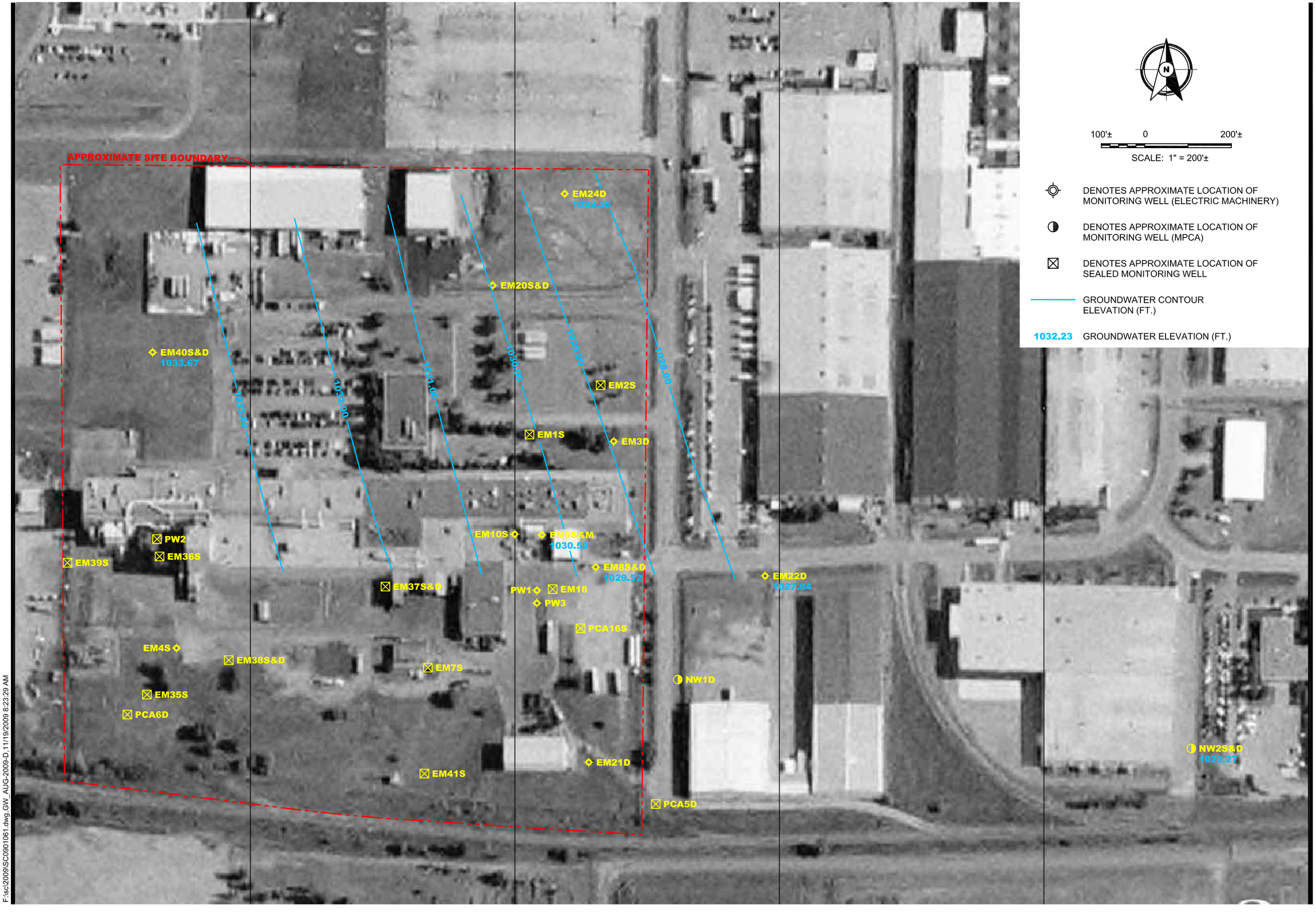
# SHALLOW GROUNDWATER CONTOUR ELEVATION MAP - AUGUST 2009

ELECTRIC MACHINERY SITE
711 ANDERSON AVENUE NORTH
WAITE PARK, MINNESOTA

| | |
|---|---|
| Project No: | SC0901061 |
| Drawing No: | SC0901061 |
| Scale: | 1" = 200'± |
| Drawn By: | BJB |
| Date Drawn: | 11/16/09 |
| Checked By: | TRH |
| Last Modified: | 11/19/09 |

Sheet: of | Fig: 1

F:\sc\2009\SC0901061.dwg,GW_AUG-2009-S,11/19/2009 8:13:36 AM




100'± 0 200'±

SCALE: 1" = 200'±

DENOTES APPROXIMATE LOCATION OF MONITORING WELL (ELECTRIC MACHINERY)

DENOTES APPROXIMATE LOCATION OF MONITORING WELL (MPCA)

DENOTES APPROXIMATE LOCATION OF SEALED MONITORING WELL

GROUNDWATER CONTOUR ELEVATION (FT.)

1032.23 GROUNDWATER ELEVATION (FT.)

BRAUN INTERTEC
11001 Hampshire Avenue So.
Minneapolis, MN 55438
PH. (952) 995-2000
FAX (952) 995-2020

# DEEP GROUNDWATER CONTOUR ELEVATION MAP - AUGUST 2009

ELECTRIC MACHINERY SITE
711 ANDERSON AVENUE NORTH
WAITE PARK, MINNESOTA

| | |
|---|---|
| Project No: | SC0901061 |
| Drawing No: | SC0901061 |
| Scale: | 1" = 200'± |
| Drawn By: | BJB |
| Date Drawn: | 11/16/09 |
| Checked By: | TRH |
| Last Modified: | 11/19/09 |
| Sheet: of | Fig: 2 |

F:\sc\2009\SC0901061.dwg,GW_AUG-2009-D,11/19/2009 8:23:29 AM

**Figure 3**
**Water Elevations vs. Time**
**Former Electric Machinery Site**

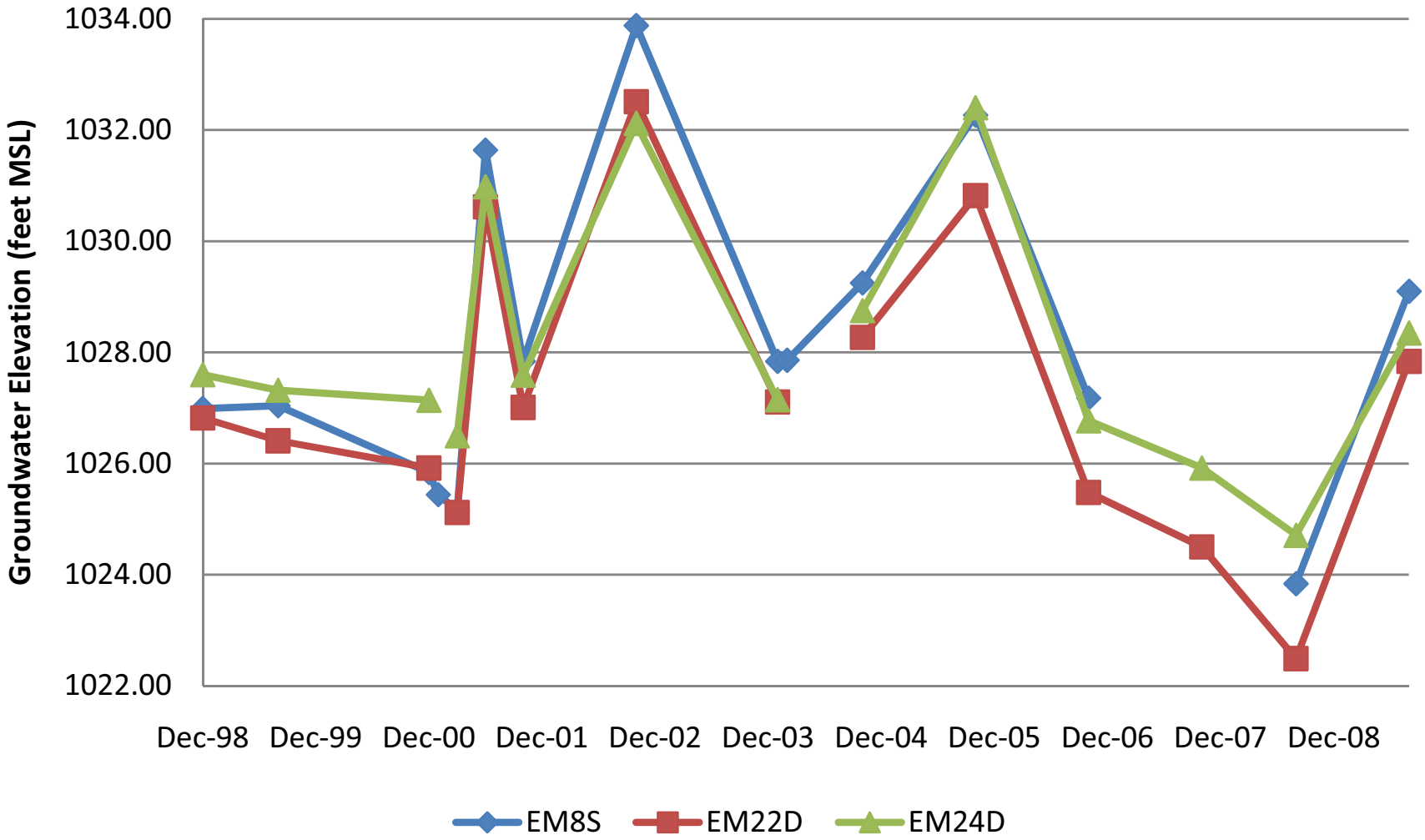


**Figure 4**
**EM-4S**
**Historical VOC concentrations**

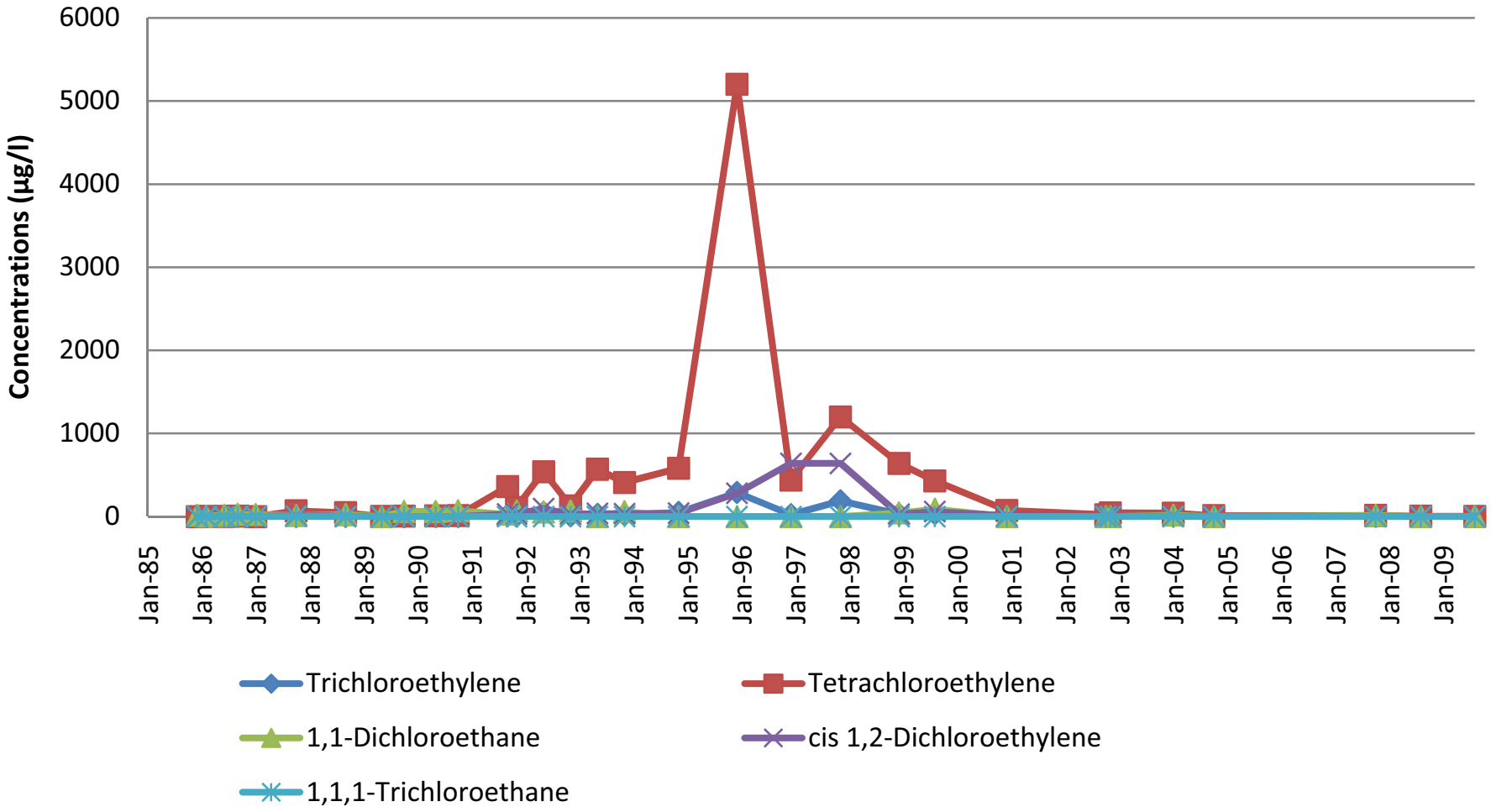


**Figure 5**
**EM-8S**
**Historical VOC concentrations**

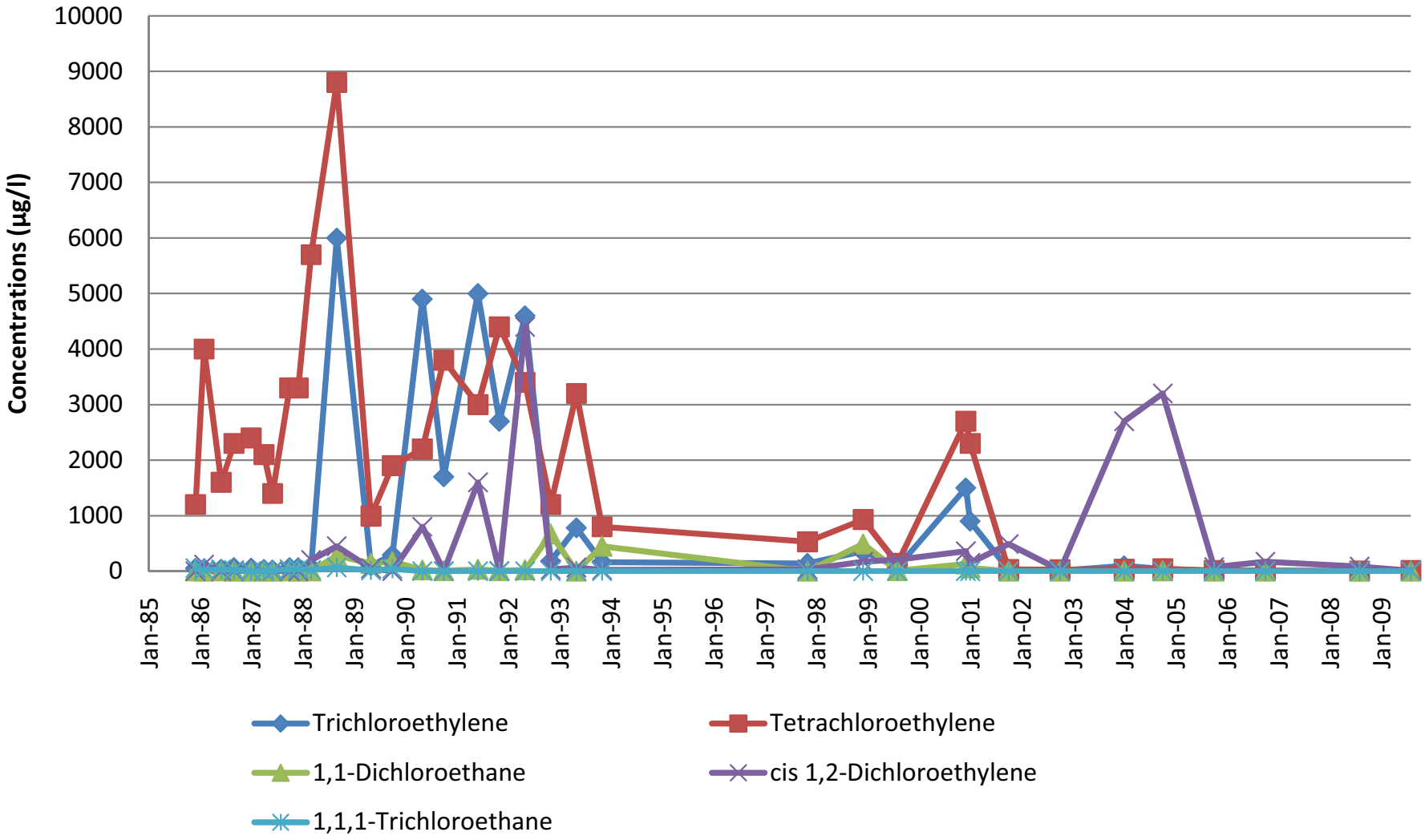


**Figure 6**
**EM-8D**
**Historical VOC concentrations**

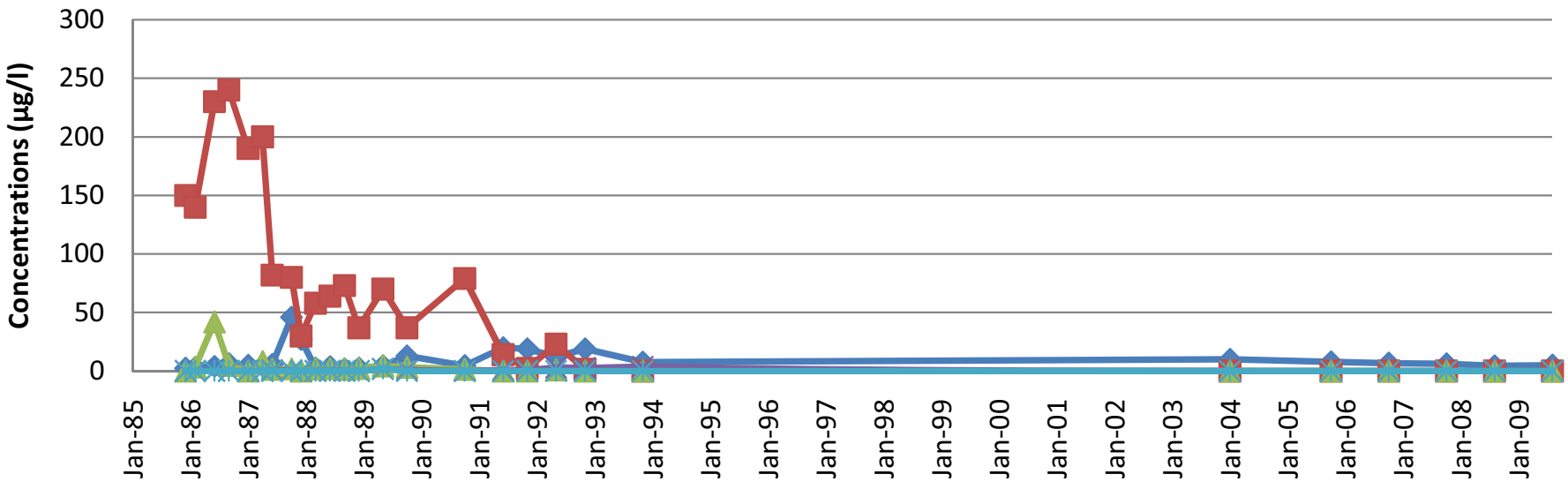


**Figure 7**
**EM-9M**
**Historical VOC concentrations**

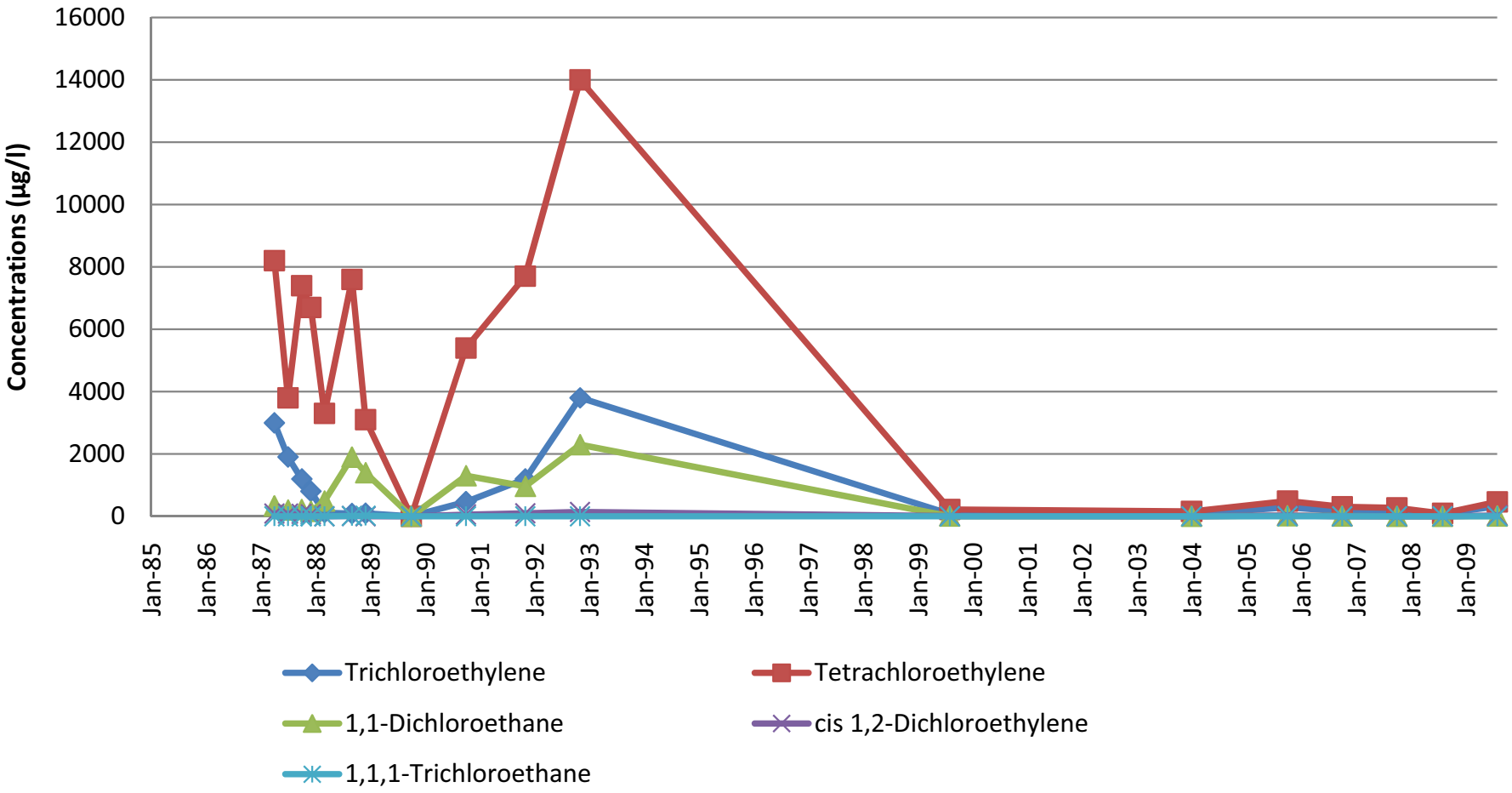


**Figure 8**
**EM-22D**
**Historical VOC concentrations**

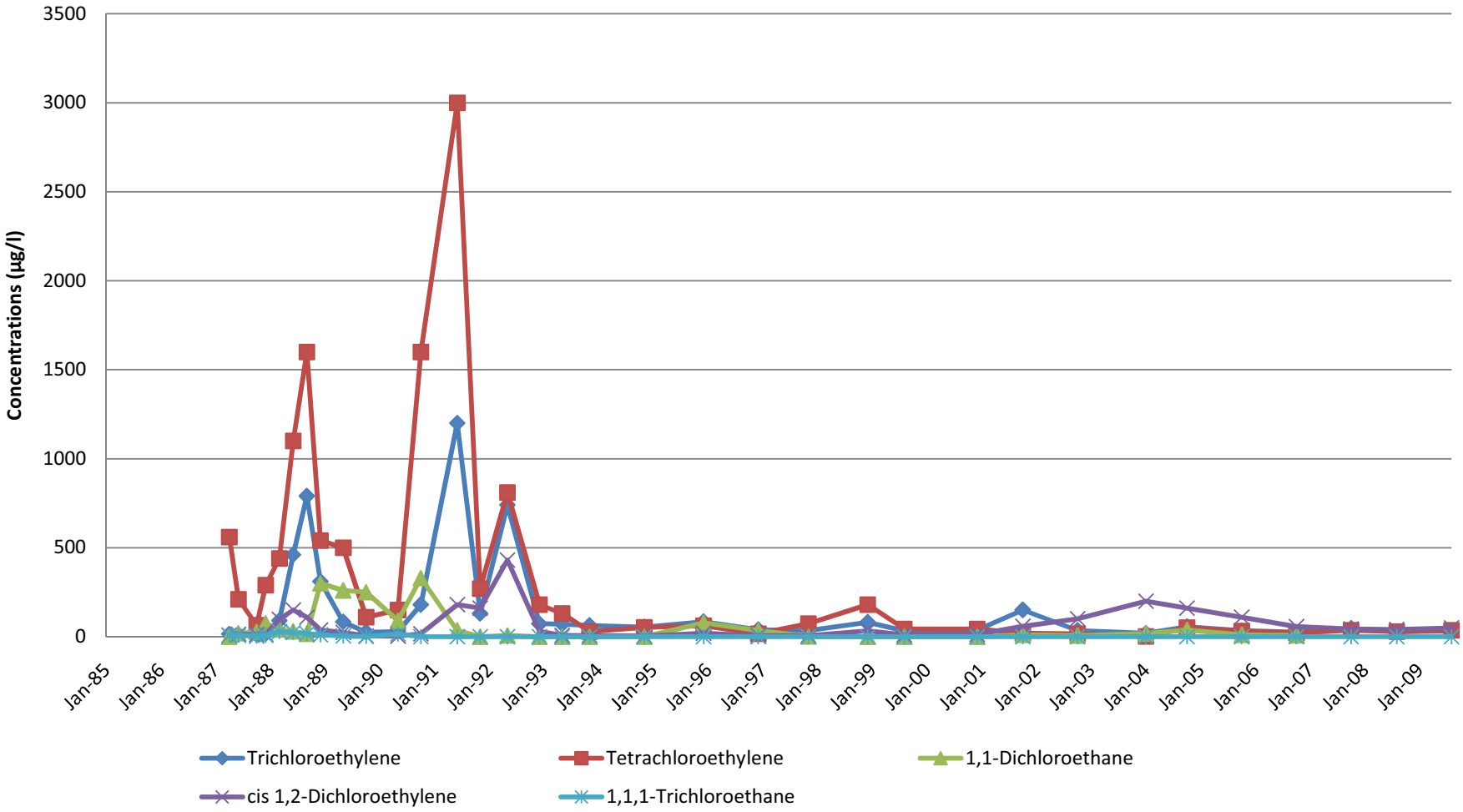


**Figure 9**
**EM-24D**
**Historical VOC concentrations**

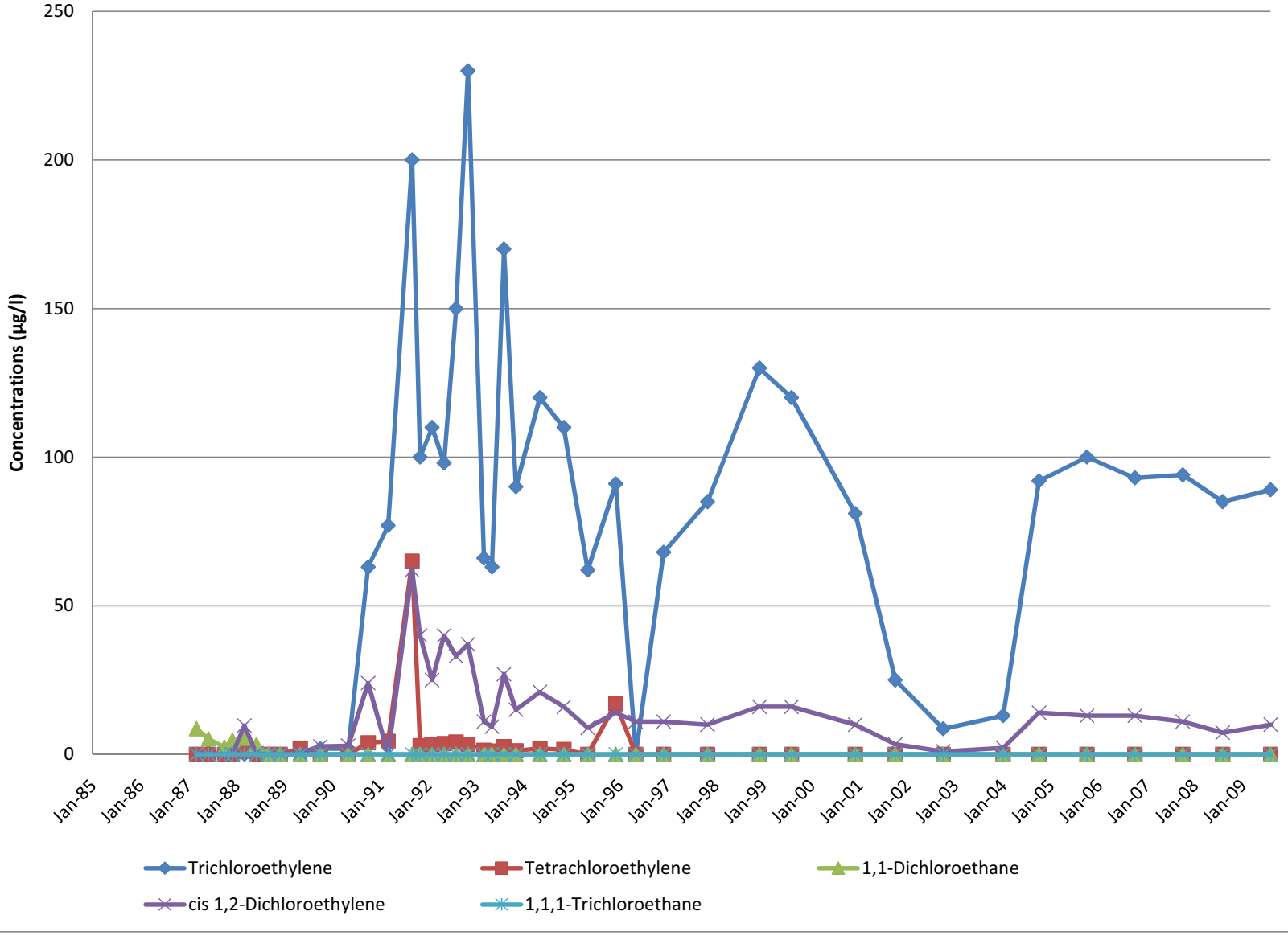
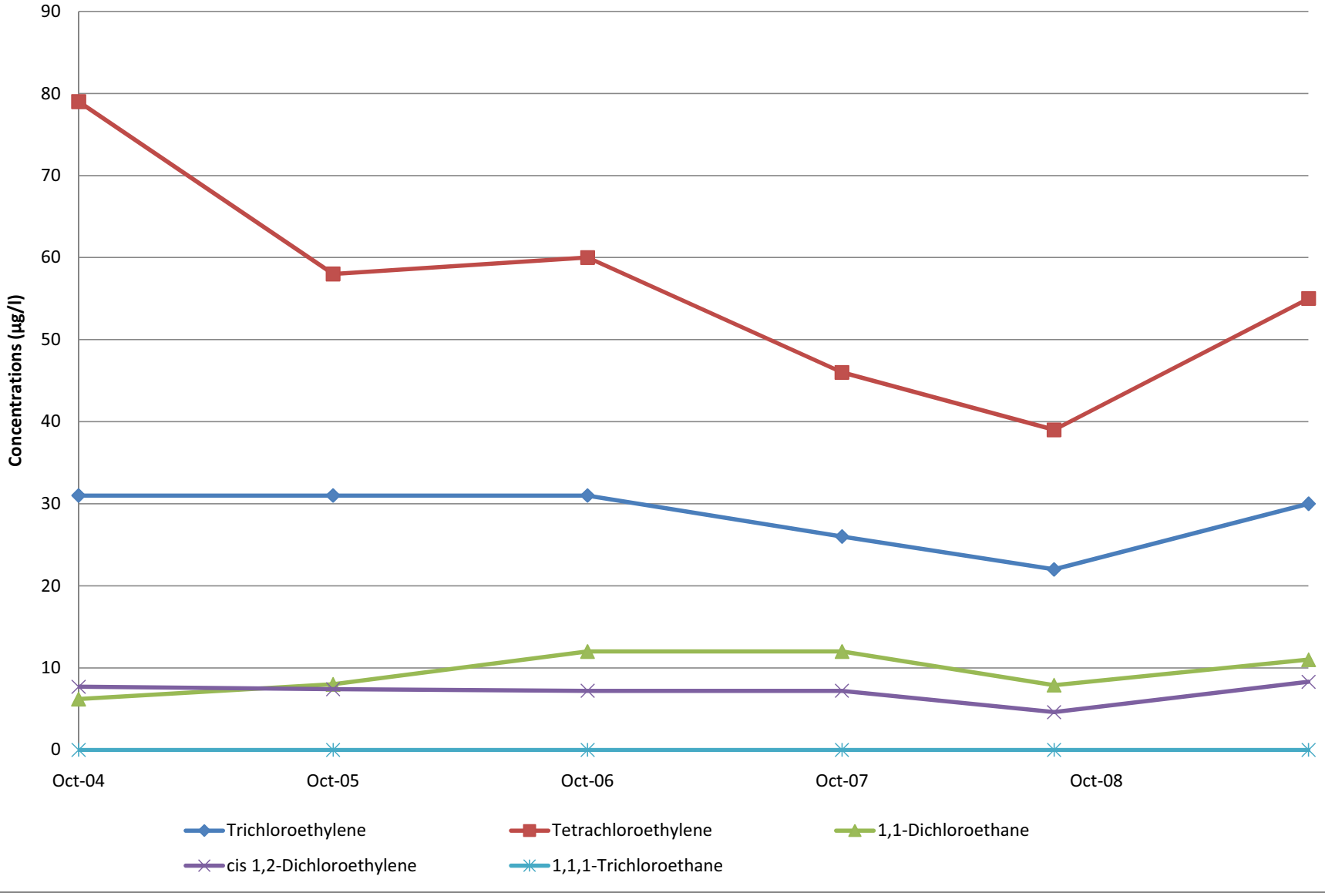


**Figure 10**
**NW-2D**
**Historical VOC concentrations**



# Attachment C-3

# BN Historical Summary Data

SAUK RIVER

EM INTERNATIONAL

EM SITE

ANDERSON AVENUE

MUNICIPAL WELL HOUSE

ERT-15S
ERT-16S
ERT-14S
MW-A1
ERT-30S
ERT-20S
ERT-A1
AREA A
MPCA-7S
10th AVENUE
ERT-29S
ERT-B1
MPCA-14S
MPCA-14D
AREA B
ERT-B2
ERT-31
ERT-12S
ERT-23S
ERT-C1
AREA C
ERT-D1
ERT-11S
AREA D
ERT-1S
ERT-1D
3rd STREET
MW-33
MW-3S
MW-3
MPCA-13S
MPCA-13D
ERT-28S
MW-28
AREA E
ERT-8D
CONTAINMENT CELL
MW-34
ERT-10S
AREA F
ERT-2S
ERT-G1
ERT-26S
ERT-26D
MPCA-4S
MPCA-4D
MPCA-12S
MPCA-12D
ERT-6D
ERT-7S
ERT-7D
ERT-4S
ERT-4D
ERT-25D
ERT-25S
AREA G
ERT-3D
ERT-3S
MPCA-3S
MPCA-3D
ERT-27S
ERT-19S
ERT-19D
MPCA-10S
MPCA-11D
MPCA-11S
AREA H
2nd AVENUE
3rd STREET

LEGEND

- MW-1 — MONITORING WELLS TO BE SAMPLED SEMI-ANNUALLY
- MPCA-1 — MONITORING WELL
- ERT-C1 — ABANDONED WELL
- APPROXIMATE LOCATION OF CONTAINMENT CELL
- SITE BOUNDARY
- AREA BOUNDARIES

0 250 500 750 1000

1"=500'
APPROXIMATE

N

| REFERENCE DWG | DESCRIPTION | NO | DRWN | DATE | REVISION | CHKD | DATE | APPVD | DATE |
|---|---|---|---|---|---|---|---|---|---|
| | | 6 | | | | | | | |
| | | 5 | | | | | | | |
| | | 4 | | | | | | | |
| | | 3 | | | | | | | |
| | | 2 | | | | | | | |
| | | 1 | | | | | | | |
| | | 0 | RLL | 03/20/96 | DRAFT | | | | |

BURLINGTON NORTHERN SANTA FE
WAITE PARK CAR SHOP SITE
3-1648-000

This drawing is sent to you subject to return upon demand, with the understanding that it is not to be reproduced, copied or used, directly or indirectly, in any way detrimental to our interests. All rights reserved.

CURRENT DATE: 5/20/96 | CAD FILE: FIG2

CONTAINMENT CELL AND MONITORING WELL LOCATIONS

REMEDIATION TECHNOLOGIES INC

DRAWING NO. FIGURE 3-1 | REV. 0

# T bl -
# Co i C ll C p Effi i y C l ul io s
# W i P rk, MN

| Dis rg D | L R ov d Fro Su p (g llo s) | u l L R ov l fro Su p (g llo s) | u l Pr ipi io (i s)[1] | u l C ll Effi i y[2] |
|---|---|---|---|---|
| 1/16/96 | 1,500 | 1,500 | 20.06 | 99.8% |
| 11/11/97 | 4,500 | 4,500 | 25.39 | 99.6% |
| 3/19/98 | 2,000 | 7,625 | 26.01 | 99.4% |
| 7/13/98 | 3,000 | | | |
| 10/5/98 | 2,300 | | | |
| 12/11/98 | 325 | | | |
| 3/25/99 | 450 | 3,075 | 25.43 | 99.7% |
| 6/1/99 | 1,200 | | | |
| 8/18/99 | 725 | | | |
| 12/29/99 | 700 | | | |
| 3/10/00 | 600 | 1,141 | 21.88 | 99.9% |
| 6/21/00 | 341 | | | |
| 9/22/00 | 200 | | | |
| 12/19/00 | 0 | | | |
| 1/25/01 | 0 | 7,100 | 29.17 | 99.5% |
| 4/24/01 | 1,200 | | | |
| 7/26/01 | 5,000 | | | |
| 10/17/01 | 900 | | | |
| 1/25/02 | 800 | 7,700 | 38.76 | 99.6% |
| 5/2/02 | 1,100 | | | |
| 7/1/02 | 2,000 | | | |
| 10/3/02 | 3,800 | | | |
| 1/3/03 | 2,600 | 8,500 | 25.25 | 99.3% |
| 4/4/03 | 1,000 | | | |
| 7/1/03 | 2,100 | | | |
| 10/16/03 | 2,800 | | | |
| 1/12/04 | 600 | 5,800 | 30.39 | 99.6% |
| 4/12/04 | 600 | | | |
| 7/19/04 | 2,100 | | | |
| 10/19/04 | 2,500 | | | |
| 2/3/05 | 1,200 | 6,400 | 36.63 | 99.6% |
| 5/6/05 | 800 | | | |
| 7/14/05 | 2,200 | | | |
| 10/25/05 | 2,200 | | | |
| 3/13/06 | 2,200 | 11,050 | 23.51 | 99.0% |
| 8/10/06 | 6,000 | | | |
| 10/5/06 | 2,850 | | | |
| 1/9/07 | 800 | 6,370 | 29.43 | 99.5% |
| 4/10/07 | 470 | | | |
| 8/16/07 | 2,200 | | | |
| 11/8/07 | 2,900 | | | |
| 2/29/08 | 1,600 | 8,300 | 30.43 | 99.4% |
| 5/29/08 | 2,900 | | | |
| 8/14/08 | 3,000 | | | |
| 10/31/08 | 800 | | | |
| Total | 70,761 | 79,061 | 362.34 | 99.5% |

**No s:**

1. Annual precipitation data collected from *http://www.climate.umn.edu/climatology.htm.*
2. Annual cell efficiency was calculated as follows:

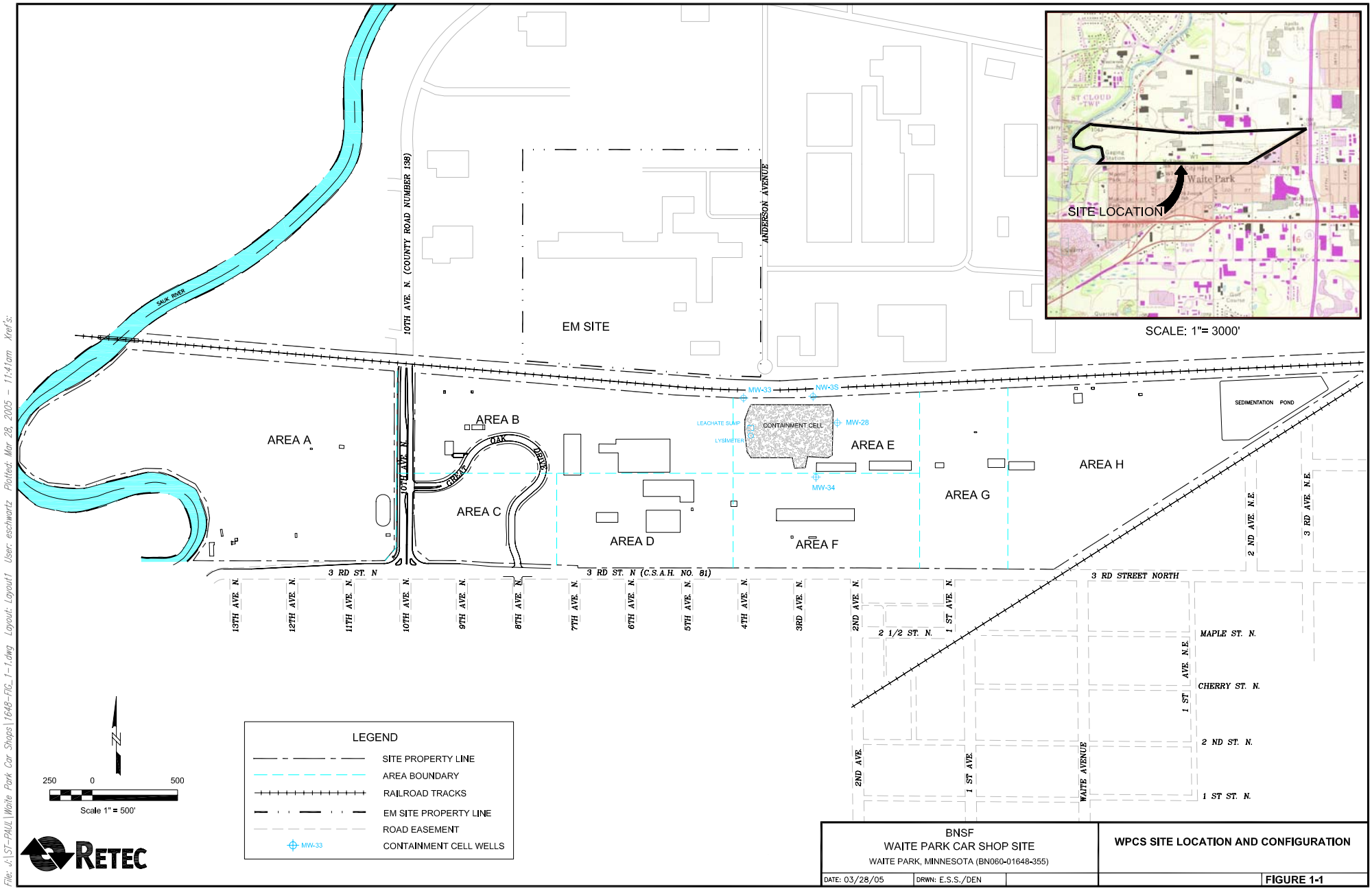
| | | |
|---|---|---|
| Total Area of Cap Liner - | 1.73 | Acres |
| Total Precipitation - | 17,021,616 | Gallons |
| Leachate as % of precipitation - | 0.5% | |
| Cap efficiency as defined by EPA - | (Total Precip - Leachate)/ Total Precip | |

NOTE: All volumes are in gallons

# T bl 2-1
# L Dis rg R ord
# W i P rk, MN

| Dis rg D | L R ov d Fro Su p (g llo s) | u l L R ov l fro Su p (g llo s) |
|---|---|---|
| 1/16/96 | 1,500 | 1,500 |
| 11/11/97 | 4,500 | 4,500 |
| 3/19/98 | 2,000 | 7,625 |
| 7/13/98 | 3,000 | |
| 10/5/98 | 2,300 | |
| 12/11/98 | 325 | |
| 3/25/99 | 450 | 3,075 |
| 6/1/99 | 1,200 | |
| 8/18/99 | 725 | |
| 12/29/99 | 700 | |
| 3/10/00 | 600 | 1,141 |
| 6/21/00 | 341 | |
| 9/22/00 | 200 | |
| 12/19/00 | 0 | |
| 1/25/01 | 0 | 7,100 |
| 4/24/01 | 1,200 | |
| 7/26/01 | 5,000 | |
| 10/17/01 | 900 | |
| 1/25/02 | 800 | 7,700 |
| 5/2/02 | 1,100 | |
| 7/1/02 | 2,000 | |
| 10/3/02 | 3,800 | |
| 1/3/03 | 2,600 | 8,500 |
| 4/4/03 | 1,000 | |
| 7/1/03 | 2,100 | |
| 10/16/03 | 2,800 | |
| 1/12/04 | 600 | 5,800 |
| 4/12/04 | 600 | |
| 7/19/04 | 2,100 | |
| 10/19/04 | 2,500 | |
| 2/3/05 | 1,200 | 6,400 |
| 5/6/05 | 800 | |
| 7/14/05 | 2,200 | |
| 10/25/05 | 2,200 | |
| 3/13/06 | 2,200 | 11,050 |
| 8/10/06 | 6,000 | |
| 10/5/06 | 2,850 | |
| 1/9/07 | 800 | 6,370 |
| 4/10/07 | 470 | |
| 8/16/07 | 2,200 | |
| 11/8/07 | 2,900 | |
| 2/29/08 | 1,600 | 8,300 |
| 5/29/08 | 2,900 | |
| 8/14/08 | 3,000 | |
| 10/31/08 | 800 | |
| Total | 79,061 | 79,061 |

**NOTE:** All volumes are in gallons




RETEC

BNSF
WAITE PARK CAR SHOP SITE
WAITE PARK, MINNESOTA (BN060-01648-355)

**WPCS SITE LOCATION AND CONFIGURATION**

DATE: 03/28/05 | DRWN: E.S.S./DEN | **FIGURE 1-1**

File: J:\ST-PAUL\Waite Park Car Shops\1648-FIG_1-1.dwg Layout: Layout1 User: eschwartz Plotted: Mar 28, 2005 - 11:41am Xref's:

# Attachment D

# Public Notice

**PUBLIC NOTICE**
**Announcement of a Five-Year Review for the Waite Park Wells National Priorities List (NPL) Site**

The Minnesota Pollution Control Agency (MPCA) and the U.S. Environmental Protection Agency are preparing a Five-Year Review to review the effectiveness of the cleanup for the Waite Park Wells NPL Site located in Waite Park, Minnesota. The review includes the cleanup efforts at the Electric Machinery (EM) site, the Burlington Northern (BN) site and the Waite Park water wells and treatment. The purpose of the review is to determine whether the cleanup activities remain protective of human health and the environment. Monitoring has historically detected volatile organic compounds in the aquifer supplying drinking water for the city of Waite Park. The review will be completed by May 25, 2010. The remedy at the EM site consisted of groundwater extraction and treatment prior to discharge to the Sauk River (1988-2001). EM has also performed soil excavation and disposal and soil vapor extraction. Groundwater monitoring is ongoing. The remedy at the BN site included the excavation, treatment and placement of contaminated soil in an on-site containment cell; groundwater monitoring around the containment cell; further soil assessment and excavation,

stabilization and off-site disposal of contaminated soil at a landfill. The remedy at the Waite Park municipal wells consists of treatment for the water supply using packed tower aeration. The community can contribute by providing comments regarding the ongoing cleanup and monitoring efforts. Public comments will be accepted through May 25, 2010. Please call or address your comments to: Mr. Wayne Sarappo, Project Leader
Minnesota Pollution Control Agency
Remediation Division
520 Lafayette Road N.
St. Paul, MN55155
Toll Free: 800-657-3864
651-296-7353
Wayne.sarappo@state.mn.us
Stephen Mikkelson
Information Officer
Minnesota Pollution Control Agency
Brainerd Office
North-Central Region
7678 College Road
Baxter, MN 56425
218-316-3887
stephen.mikkelson@state.mn.us
Publish: April 23, 2010.

# Attachment E

# Institutional Control Evaluation

Bay West
Customer-Focused Environmental & Industrial Solutions

Bay West Inc.
5 Empire Drive, St. Paul, MN 55103
651-291-0456 * FAX 651-291-0099
www.baywest.com * info@baywest.com

February 10, 2010

Mr. Wayne Sarappo
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-4194

**RE: Institutional Control Evaluation**
**Waite Park Wells Site**
**Waite Park, Minnesota**

Dear Mr. Sarappo:

Bay West, Inc. (Bay West) has prepared an Institutional Control (IC) Evaluation of the Waite Park Wells Site (Site) located in Waite Park, Minnesota, in accordance with the Bay West October 8, 2009, Scope of Work (SOW)/Cost Proposal for the Fourth Five-Year Review and IC Evaluation. The purpose of the IC Evaluation was to assess the effectiveness of the existing ICs by determining whether they are functioning as intended and assess whether additional work was needed to enhance the reliability of the ICs. The IC Evaluation is being completed as part of the Minnesota Pollution Control Agency's (MPCA's) Fourth Five-Year Review for the Site.

The Site is listed on the National Priority List (NPL) as the Waite Park Wells Site and consists of the well field area in the City of Waite Park and the adjacent source properties: the Electric Machinery (EM) Operable Unit (OU)1, and the Burlington Northern Car Shop (BN) OU2. **Figure 1** shows the location of the Site.

## 1.0 Scope of Work

As specified in the Work Plan, Bay West completed the following:

- Reviewed historical Site documentation and existing regulatory guidance to determine which IC documents should be in place.
- Evaluated the legal description(s) contained in the existing IC documents to assure they cover the entire area where unlimited use and unrestricted exposure are not allowed.
- Evaluated property title work to confirm ownership and determine whether some interest, such as a mortgage or utility easement, might defeat the efficacy of the ICs.
- Evaluated the effectiveness of the current ICs to assure they prevent the installation of groundwater wells in the vicinity of the Site.
- Evaluated the existing ICs to determine if all intended objectives are included in an IC and that the ICs embody the appropriate objectives/restrictions.
- Evaluated the current ICs to assure that they are enforceable by the MPCA.
- Evaluated the long-term stewardship procedures at the Site.

A discussion of the historical site documentation is provided in Section 2.0, the IC guidance document review is in Section 3.0, a summary of current ICs is provided in Section 4.0, a summary of the Title Search and review is in Section 5.0. Conclusions and recommendations are provided in Section 6.0 and Section 7.0, respectively.

Based on a review of documents available at the MPCA, Stearns County, and the City of Waite Park, Bay West identified 30 individual parcels on the Site (**Figure 2**). Six of these parcels are within the EM OU1 site and twenty-four are within the BN OU2 site. **Table 1** lists the parcels reviewed (identified as 1 through 30), the associated property identification (PID) number for each parcel, and the OU in which the parcels are located. EM OU1 contains parcel numbers 23, 24, and 27 through 30. BN OU2 contains parcel numbers 1 through 22, 25, and 26. Parcels 20 and 22 were not found in the Stearns County System during the title review.

## 2.0 Historical Site Documentation

A Third Five-Year Review was completed in February 2005 by the MPCA. In the Third Five-Year Review Report for the Site, Issues 3 and 8 are related to ICs. As presented in the Third Five-Year Review Report, Issues and Associated Recommendations and Follow-Up Actions for Items 3 and 8 are:

- **Issue 3:** Residual soil contamination remains on the EM property. Groundwater has not yet achieved cleanup levels under the EM site and other properties. The EM site does not support unlimited use and unlimited exposure. An IC Plan needs to be completed for the EM site to implement land and groundwater use restrictions.

  **Recommendations and Follow-Up Actions:** EM Responsible Parties (RPs) should submit and implement and IC Plan (including the IC Monitoring Plan), for the EM site and for the properties over the plume, that meets the requirements to be developed by MPCA; assure that ICs appear within the chain of title; document existing ICs; complete and record the IC easement/declaration of restrictions and covenants for a minimum of the following land and groundwater restrictions as applicable that prohibit: a) disturbance of soil at the EM site property unless pursuant to a Work Plan approved by the MPCA Commissioner; b) well drilling and use of groundwater in the plume until cleanup levels are achieved; c) inappropriate uses of the EM site land including residential use where soils exceed the residential standard or unlimited use and unrestricted exposure.

- **Issue 8:** Residual soil contamination remains on the BN site. Groundwater is still at risk due to the remaining soil contamination on the BN property. The BN site does not support unlimited use and unlimited exposure. Some ICs restricting land and groundwater use have been implemented at the BN site; however, additional ICs and documentation of existing ICs are needed. An IC plan needs to be completed for the entire BN site.

  **Recommendations and Follow-Up Actions:** BN should submit and implement an IC Plan (including the IC Monitoring Plan), for the BN site that meets the requirements to be developed by the MPCA; assure that all ICs appear within the chain of title; document existing ICs; provide maps documenting the locations and associated ICs; and complete and record the remaining IC easements/declarations of restrictions and covenants for a minimum of the following land and groundwater restrictions as applicable that prohibit: a) interference with or disturbance of the cap and contaminated soils located within the containment cell; b) disturbance of subsurface soils at the BN site properties in areas where contaminated soils may exceed industrial cleanup levels; c) well drilling and use of groundwater until cleanup levels are achieved; d) residential use of land where soils may

exceed the residential level or UU/UE, including Area A where the only allowed uses are public park or industrial/commercial; and e) any use of land other than industrial/commercial on Areas B-H.

## 3.0 Institutional Control Guidance Document Review

Bay West reviewed MPCA and United States Environmental Protection Agency (EPA) IC guidance documents available on their respective websites to assess whether existing ICs are consistent with current guidance. Documents reviewed included, but were not limited to:

- MPCA Risk-Based Site Evaluation Manual, September 1988, specifically the Draft Guidelines on Incorporation of Planned Property Use Into Site Decisions and the revised attachment: Environmental Covenant and Easement, dated March 18, 2008.
- Strategy to Assure IC Implementation at Superfund Sites, OSWER No. 9355.0-106, September 2004.
- Institutional Controls: A Citizen's Guide to Understanding Institutional Controls at Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservations and Recovery Act Cleanups, EPA-540-R-04-003, February 2005.

ICs are legal and administrative tools used to maintain protection of human health and the environment at sites where contaminated materials may remain. The EPA defines ICs as "non engineered instruments that help minimize the potential for human exposure to contamination and protect the integrity of the remedy." ICs are generally consolidated into the following four categories:

1. Governmental controls (e.g. zoning, local ordinances);
2. Proprietary controls (declarations, easements, restrictive covenants);
3. Enforcement and permit tools (e.g. consent decrees, administrative orders); and
4. Informational tools (e.g., notices filed in the land records, advisories).

ICs are most effective when they are layered so that if one is overlooked/fails, other ICs will be in place to maintain protectiveness and notify potential parties of risks. There are no enforcement and permit tools associated with the Site. However, this IC evaluation did identify governmental controls, proprietary controls, and informational tools associated with various parcels within the Site. These are summarized in Section 4.0.

## 4.0 Summary of Current Institutional Controls

Based on review of the guidance documents, historical site documents, and the January 2010 Title Search, the existing ICs in place for each parcel are summarized in **Table 2** and briefly described below.

### 4.1 Governmental Controls

**Zoning**: The City of Waite Park City and Stearns County offices were visited on October 29, 2009, to obtain zoning information on the Site. Zoning maps are included in **Attachment 1** and summarized below.

EM OU1 - EM OU1 is zoned entirely as an I-3 Planned Industrial District. The definition of I3 Planned Industrial District from City of St. Cloud (Zoning Article 10) is a district which "provides exemplary standards of development for certain industrial uses that, because of location, transportation, access and other land use factors, must necessarily be located and adjacent to lesser land use intensities".

BN OU2 - The eastern half of BN OU2, between approximately 6th Avenue North and Waite Avenue North, is zoned I-1 Industrial. Approximately one quarter of BN OU2 between 6th Ave North and County Road 138 is zoned B-2 Commercial. The remaining quarter west of County Road 138 and a small section along the north side of 3rd St North are zoned City Park. The City of Waite Park Ordnance 52 defines these zones as:

- I-1 Industrial District is one that "provides space for industrial activities involving a minimum degree of refuse byproducts and air and noise pollution and requiring a relatively low level of on premise processing".

- B-2 Commercial/General Business District is a "district that provides space for concentrated general business and commercial activities or central business district at locations where the interaction between those activities can be maximized with minimal infringement on the residential neighborhoods".

- City Park does not have its own definition, but likely will fall into the Planned Unit Development Overlay District. This district covers all development that "would preserve or create features or facilities of benefit to the community such as but not limited to open space or active recreational facilities".

The current EM OU1 and BN OU2 zoning is considered an IC tool as this classification would restrict uses other than industrial/commercial/park. In addition, the zoning is enforced by the City of Waite Park and the City of St. Cloud.

**Water Wells**: In Minnesota, all wells must be installed by contractors licensed by the Minnesota Department of Health (MDH), except that an individual may construct a well for personal use on land owned or leased by that individual, and used by the individual for farming or agricultural purposes or for the individual's place of abode. In all cases, a "notification" form to the MDH is required and the well must be constructed according to the requirements of Minnesota Statutes, Chapter 103I, and Minnesota Rules, Chapter 4725. Minn. Rules and Statute provide requirements on isolation distances: "The minimum isolation distances must be maintained between a new well and a source of contamination no longer in use, unless all contaminants have been removed from the source, and visibly contaminated soils have been removed. For complete regulations, consult these rules and Minnesota Statutes, Chapter 103I."

Additionally, Short Elliott Hendrickson, Inc. (SHE) on behalf of the City of Waite Park, completed a *Wellhead and Source Water Protection Plan, April 2003,* that includes protection of the water source and an alternative water supply contingency plan; management of wells in the Drinking Water Source Management Area (DWSMA); and ways to notify the public of the water concerns in the area including some of the following: public education including educating well owners in the DWSMA, and the publication and distribution of a Drinking Water Consumer Confidence Report to all users of Waite Park public water supply.

This governmental control would provide a landowner/well driller with questions that should be answered prior to installation of a well but will not necessarily notify them of the presence of

contamination. However, the Site is located entirely within the City of Waite Park and St. Cloud, which have separate regulations regarding excavations including well installations.

### 4.2 Proprietary Controls

A Title Search was performed in January 2010 to determine if proprietary controls, such as declarations or other proprietary controls were filed on the parcels. The outcome of this search is discussed in Section 5.0 and summarized in **Table 2**, in relation to the OU/parcel that they have been filed on. A Declaration should provide a detailed legal description of the site, a complete description of the types and location of residual contaminants, the parties involved, provisions for third party enforcement, the parties rights, use restrictions, language to assure that the IC is binding on subsequent purchasers (i.e., the restrictions "run with the land"), and specific notice and approval requirements for modifying or terminating the control.

### 4.3 Enforcement and Permit Tools

As stated previously, there are no enforcement and permit tools such as consent decrees and administrative orders. However, a Request for Response Action (RFRA) was issued to the EM OU1 and BN OU2 RPs by the MPCA in 1986 and 1985, respectively. These orders are still binding on the parties to whom they were originally issued and are applicable to the parcels under their ownership as shown on **Table 2**. Although they do not travel with the change in ownership, they are referenced in some of the documents filed for the parcels. They would also serve as an information tool.

### 4.4 Informational Tools

A Title Search was performed in January 2010 to determine if Affidavits or other information tools were filed on the parcels. The outcome of this search is discussed in Section 5.0 and summarized in **Table 2**, in relation to the OU/parcel that they have been filed on. An Affidavit should contain a legal description of the property and disclose to any potential transferees: a) that the property has been used to dispose of hazardous waste or that the property is contaminated by a release of a hazardous substance(s); b) the identity, quantity, location, condition and circumstances of the disposal or contamination to the full extent known or reasonably ascertainable; and c) that, if the property was used as a permitted hazardous waste disposal facility, the use of the property or some portion of it may be restricted as provided in Minn. Stat. § 115B.16, subd. 1 (2003).

Several other types of informational tools are associated with the Site and provide added layers of notification/protection for land owners, neighbors and community members. These tools also provide regulators with regular site updates alerting them to potential issues that could affect protection of human health and the environment. These tools include:

- Public Administrative Record that is available at the St. Cloud Public Library and the Waite Park Public Library.
- Periodic groundwater monitoring, site inspections, and annual monitoring and maintenance reporting performed by RPs and the MPCA/MPCA representative.
- Five-Year Review. In accordance with the National Contingency Plan, 40 Code of Federal Regulations (CFR) § 300.430(f)(4)(ii): If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action. Three Five-Year Reviews have been conducted on this site since the1989

Record of Decision (ROD) for the EM OU1. The ROD for the BN OU2 was issued in 1994. This IC Evaluation is part of the Fourth Five-Year Review for the Site.

- Public Notices: Public Notices are submitted to the local paper notifying the local public if significant actions are taken on the Site. Several public notices have been filed for the Site and are located in the public administrative record.

### 4.5 Third Five Year Review IC Documents

The third Five-Year Review identified ICs filed on the OUs/parcels that were reportedly in place at the time of that review. For informational purposes, those ICs are summarized in **Attachment 2**. It should be noted that some of the ICs documents identified were not found during the January 2010 Title Search; others appear to have been recorded sporadically and not on each of the parcels to which they should apply.

## 5.0 Title Search Performed in January 2010

To evaluate the adequacy of the existing ICs, Bay West requested a Limited Title Search Report (Title Search) from Heartland Title LLC (Heartland) for all of the parcels in EM OU1 and BN OU2. The limited Title Search included the current and the previous four past owners, recorded interests, subordinate agreements, easements/covenants, and other such information to aid in confirming the effectiveness of the ICs placed on the parcels.

In January 2010, Heartland completed the Title Search at the Stearns County Courthouse and prepared a form for each parcel. Copies of the completed parcel forms are included in **Attachment 3**. No judgments or liens were identified for any of the parcels. ICs documents identified during the Title Search of the parcels are summarized in **Table 3** and **Table 4** for EM OU1 and BN OU2, respectively. BN OU2 parcels 20 and 22 were not identified in the Stearns County System during this Title Search. The ICs are summarized by document number in the tables and a brief description is provided for each corresponding document number in **Attachment 4.** Copies of the actual documents are included in **Attachment 5**. A summary of the Title Search for each OU is provided below. Specific note was made if the IC was an informational tool, such as Affidavits or proprietary controls, such as Declarations, and whether the declaration contained enforcement language.

### 5.1 Summary of Title Search for EM OU1

As stated previously, EM OU1 contains parcel numbers 23, 24, and 27 through 30. As shown in **Table 2,** Proprietary Controls and Enforcement and Permit Tools have not been filed on any of the EM OU1 parcels. At least one form of Informational Tools has been filed on all of the parcels. As identified in **Table 2,** Affidavits have been filed on all but one parcel (P24).

The filed documents provide information regarding the contamination and some of the documents also allow access to the MPCA. Some of the documents do not appear to have enforcement language, other than for mortgage or lease purposes. The filed documents are summarized by document number in **Attachment 4** and correspond to document numbers presented in **Table 3.**

In summary, at least one IC was recorded for each parcel which would inform potential owners of the existence of contamination and possibly on restrictions on the use. All of these documents were recorded before any of the current owners took title to the parcels, which indicates that particular ICs would be binding on the current property owner and enforceable

through Contract Law. However, it does not necessarily mean it has MPCA enforcement language.

### 5.2 Summary of Title Search for BN OU 2

As stated previously, BN OU2 contains parcel numbers 1 through 22, 25, and 26. Parcels 20 and 22 were not found in the Stearns County System during the title review. . As shown in **Table 2,** Proprietary Controls and Enforcement and Permit Tools have been filed on some of the BN OU2 parcels. Only 11 parcels contain some sort of enforcement language and none of them are consistent with MPCA current enforcement language. At least one form of Informational Tools has been filed on all of the parcels. As identified in **Table 2,** Affidavits have been filed on all but one parcel (P13).

The filed documents provide information regarding the contamination and some of the documents also allow access to the MPCA. Some of the documents do not appear to have enforcement language, other than for mortgage or lease purposes. These documents are summarized **Attachment 4** and correspond to document numbers presented in **Table 4**.

In summary, as least one IC was recorded for each of the parcels in BN OU2 which would inform potential owners of the existence of contamination and possibly on restrictions on the use. All of these documents were recorded before any of the current owners took title to the parcels, which indicates that particular ICs would be binding on the current property owner and enforceable through Contract Law. However, it does not necessarily mean it has MPCA enforcement language.

### 5.3 Stearns County and City of Waite Park

Bay West visited the Stearns County and City of Waite Park offices and accessed the Stearns County and City of Waite Park websites to obtain parcel numbers for each of the parcels in the Site and zoning information. Copies of the information received are included in **Attachment 6**.

## 6.0 Conclusions

As stated previously, ICs are most effective when they are layered so that if one is overlooked/fails, other ICs will be in place to maintain protectiveness and notify potential parties of risks. There are no enforcement and permit tools associated with the Site. However, this IC evaluation did identify at least two layers of ICs on each parcel, in the form of governmental controls (zoning and wellhead protection) and informational tools (including affidavits on all but two parcels). Although governmental and informational tools provide a measure of protection, proprietary controls in the form of declarations with enforcement language would provide a layer of increased protection to human health and the environment.

The following conclusions were developed based on the work completed for this IC evaluation:

- It appears that at least two forms of ICs are in place on each parcel. The ICs reviewed provide the property owners (or potential owners) with information regarding previous contamination.
- The ICs do not provide a consistent method for notifying interested parties in the restrictions or the exact locations of contamination which would likely affect the long-term stewardship of the properties.

- Access agreements are sporadic and do not appear to be consistently in place. However, some of the ICs allow access to the MPCA as necessary to address the contamination.
- Some of the ICs reviewed, specifically affidavits and declarations, do not appear to have been recorded on each of the parcels to which they should apply.
- Most of the ICs do not contain enforcement language consistent with current MPCA guidance as they were prepared and filed before the current MPCA guidance was published.

## 7.0 Recommendations

The following actions are recommended to enhance the reliability of the ICs:

- As stated previously, although there are two layers of ICs (governmental and informational tools), proprietary controls in the form of declarations with enforcement language would provide a layer of increased protection to human health and the environment. The ICs generally do not provide a consistent method for notifying interested parties in the restrictions or the exact locations of contamination which would likely affect the long-term stewardship of the properties.
- Notify the current land owners of the MPCA guidance on ICs to assure that as future ICs are prepared they follow current guidance.
- Review the ICs which are not consistently applied, specifically affidavits and declarations, to determine if they can be "re-recorded" for the parcels to which they apply but are not currently recorded. Re-recorded or newly recorded declarations should include MPCA guidance enforcement language.
- Prepare an IC Plan. Long-term protectiveness at the Site requires compliance with use restrictions to assure the remedy continues to function as intended. To assure proper maintenance, monitoring, and long-term stewardship of the ICs are maintained, the IC Plan should include the following for the entire Site: a schedule for site inspections; property owner interviews to assure a consistent method for notifying them of the restrictions and exact locations of contamination to assure long-term stewardship of the property is maintained; EPA notifications; Title Searches; and a site status checklist. Reporting should be included in the Annual Monitoring Reports prepared by the Responsible Parties.

Bay West appreciates the opportunity to complete this IC Evaluation for the MPCA. Please contact us if you have any questions.

Respectfully submitted,

Brenda Winkler, P.G.
651-341-3258
brendaw@baywest.com

**Figures**

Figure 1.....Site Location Map
Figure 2.....Parcel Map

**Tables**

Table 1.....Parcel Numbers and Property Identification Number
Table 2.....Types of ICs Identified on Each Parcel
Table 3.....ICs Identified on EM OU1 Parcels during January 2010 Title Search
Table 4.....ICs Identified on BN OU2 Parcels

**Attachments**

Attachment 1..... Zoning Maps
Attachment 2..... Summary of Third Five-Year Review IC Documents
Attachment 3..... Parcel Forms
Attachment 4..... Summary of IC Documents Identified in the January 2010 Title Search
Attachment 5..... Title Search Documents

# Figures

Map Scale 1:24,000

## Legend

- Burlington Northern Property Boundary
- Electric Machinery Property Boundary
- Waite Park Site Boundary

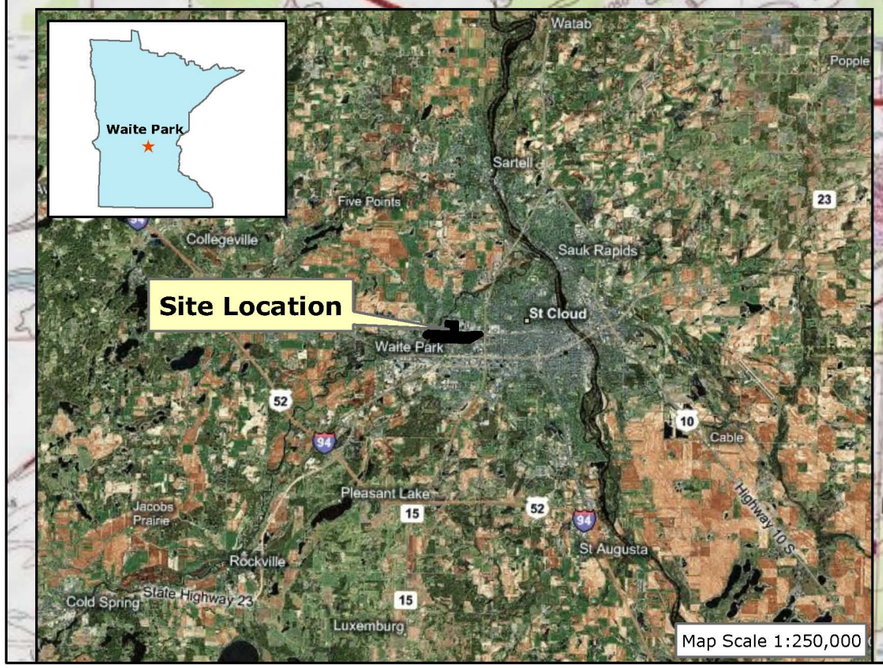
Sources:
2009 National Geographic Society
2009 Microsoft Virtual Earth Aerial

N

Electric Machinery

Waite Park Wells Site

Burlington Northern




| | | | |
|---|---|---|---|
| ENGR'G | | DATE | Bay West |
| DRAWN | T.P. | 12/11/09 | Customer-Focused Environmental & Industrial Solutions |
| REV. | 01 | 2/5/10 | |
| PROJECT NAME | WAITE PARK, MN | | |
| TITLE | SITE LOCATION MAP | | |
| PROJECT NO. | J090475 | SCALE AS SHOWN | FIGURE # 1 |

## Legend

- Burlington Northern Property Boundary
- Electric Machinery Property Boundary
- Parcel Boundary
- ⑭ Parcel ID Number (See Table)

Source: 2009 Microsoft Virtual Earth Aerial

0 300 600 1,200 Feet

N

Electric Machinery Property Boundary

Burlington Northern Property Boundary

Veterans Golf Course

Goodin Company (Formerly 7-Up)

Vision Ease

Fingerhut

Fingerhut

DCI, Inc.

McCleland Warehouse

Viking Coca Cola Bottling Co.

St Cloud

Moose Park

St Cloud Municipal Park

Waite Park

| | | | |
|---|---|---|---|
| ENGR'G | | DATE | Bay West |
| DRAWN | T.P. | 12/11/09 | Customer-Focused Environmental & Industrial Solutions |
| REV. | 01 | 2/5/10 | |
| PROJECT NAME | WAITE PARK, MN | | |
| TITLE | PARCEL MAP | | |
| PROJECT NO. | J090475 | SCALE 1:7,200 | FIGURE # 2 |

# Tables

# Table 1
# Parcel Numbers and Property Identification Numbers
# January 2010 Title Search

| | Parcel Number* | Property Identification Number |
|---|---|---|
| OU1 | 23 | 8247033 0012 |
| | 24 | 8247033 0013 |
| | 27 | 8247033 0011 |
| | 28 | 8247182 0100 |
| | 29 | 8249104 0000 |
| | 30 | 8249104 0001 |
| OU2 | 1 | 9861600 0000 |
| | 2 | 9861390 0219 |
| | 3 | 9861390 0220 |
| | 4 | 9861390 0200 |
| | 5 | 9861390 0209 |
| | 6 | 9861390 0208 |
| | 7 | 9861390 0210 |
| | 8 | 9861390 0007 |
| | 9 | 9861600 0030 |
| | 10 | 9861390 0222 |
| | 11 | 9860867 0100 |
| | 12 | 9861390 0223 |
| | 13 | 9861390 0214 |
| | 14 | 9861600 0035 |
| | 15 | 9861600 0025 |
| | 16 | 9861600 0037 |
| | 17 | 9861600 0038 |
| | 18 | 9861600 0045 |
| | 19 | 9861600 0039 |
| | 20 | 9860818 0900 |
| | 21 | 9861600 0001 |
| | 22 | 9861449 0008 |
| | 25 | 8252980 0007 |
| | 26 | 9861499 0004 |

*Parcel numbers 1-30 assigned for use in the January 2010 Title Search and IC Evaluation.
Parcels 20 and 22 were not found in the Stearns County System during the Title Search.

# Table 2
# Types of ICs Identified on Each Parcel

| | Parcel # | Governmental Controls | Proprietary Controls | Enforcement and Permit Tools | Informational Tools |
|---|---|---|---|---|---|
| OU1 | P23 | X | -- | -- | X[2] |
| | P24 | X | -- | -- | X |
| | P27 | X | -- | -- | X[2] |
| | P28 | X | -- | -- | X[2] |
| | P29 | X | -- | -- | X[2] |
| | P30 | X | -- | -- | X[2] |
| OU2 | P1 | X | -- | -- | X[2] |
| | P2 | X | X[4] | -- | X[2] |
| | P3 | X | X[4] | -- | X[2] |
| | P4 | X | X[4] | -- | X[2] |
| | P5 | X | X[4] | -- | X[2] |
| | P6 | X | X[4] | -- | X[2] |
| | P7 | X | X[4] | -- | X[2] |
| | P8 | X | X[3,4] | -- | X[2] |
| | P9 | X | -- | -- | X[2] |
| | P10 | X | X[4] | -- | X[2] |
| | P11 | X | X[3,4] | -- | X[2] |
| | P12 | X | X[4] | -- | X[2] |
| | P13 | X | **N**[4] | -- | X |
| | P14 | X | -- | -- | X[2] |
| | P15 | X | -- | -- | X[2] |
| | P16 | X | -- | -- | X[2] |
| | P17 | X | -- | -- | X[2] |
| | P18 | X | -- | -- | X[2] |
| | P19 | X | -- | -- | X[2] |
| | P21 | X | -- | X[1] | X[2] |
| | P25 | X | -- | X[1] | X[2] |
| | P26 | X | -- | X[1] | X[2] |

Note: Based on Title Review January 2010
Note: Parcels 20 and 22 were not identified in the Stearns County System.
X = at least one IC of this type is applicable and was identified
**N** = IC of this type is applicable but was NOT identified
-- = no IC of this type was identified as applicable
(1) Request for Response Action – parcel still owned by Responsible Party
(2) Including Affidavit
(3) Including Declaration
(4) Including Declaration with enforcement language.

## Table 3
## IC Identified on EM OU1 Parcels In The January 2010 Title Search

| Document Numbers / Parcel # | 669547[1] | 669548[1] | 669550[1] | 803666 | 813568 | 878751 | 1016329 |
|---|---|---|---|---|---|---|---|
| P23 | X | **N** | **N** | X | -- | -- | -- |
| P24 | **N** | **N** | **N** | X | -- | -- | -- |
| P27 | **N** | X | X | -- | **N** | -- | -- |
| P28 | **N** | X | X | -- | -- | X | X |
| P29 | **N** | X | X | -- | -- | **N** | -- |
| P30 | **N** | X | X | -- | -- | **N** | -- |

1 = This document was also identified during the third five-year review
X = IC is applicable and was identified
**N** = IC is applicable but was NOT identified in the January 2010 Title Search

-- = IC is not applicable

# Table 4
# IC Identified on BN OU2 Parcels In The January 2010 Title Search

| Document Numbers / Parcel # | 602757[1] | 602758[1] | 685222 | 848214[1] | 848215[1] | 848216[1] | 845329[1] | 996097[1] | 1163067 | 1184784 |
|---|---|---|---|---|---|---|---|---|---|---|
| P1 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P2 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P3 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P4 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P5 | **N** | X | -- | -- | -- | -- | X | -- | -- | -- |
| P6 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P7 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P8 | X | X | -- | -- | -- | -- | X | X | X | X |
| P9 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P10 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P11 | X | X | -- | -- | -- | -- | X | X | **N** | **N** |
| P12 | X | X | -- | -- | -- | -- | X | -- | -- | -- |
| P13 | **N** | X | -- | -- | -- | -- | **N** | -- | -- | -- |
| P14 | X | X | -- | X | **N** | **N** | -- | -- | -- | -- |
| P15 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P16 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P17 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P18 | X | X | X | **N** | X | X | -- | -- | -- | -- |
| P19 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P21 | X | X | -- | -- | -- | -- | -- | -- | -- | -- |
| P25 | X | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| P26 | X | -- | -- | -- | -- | -- | -- | -- | -- | -- |

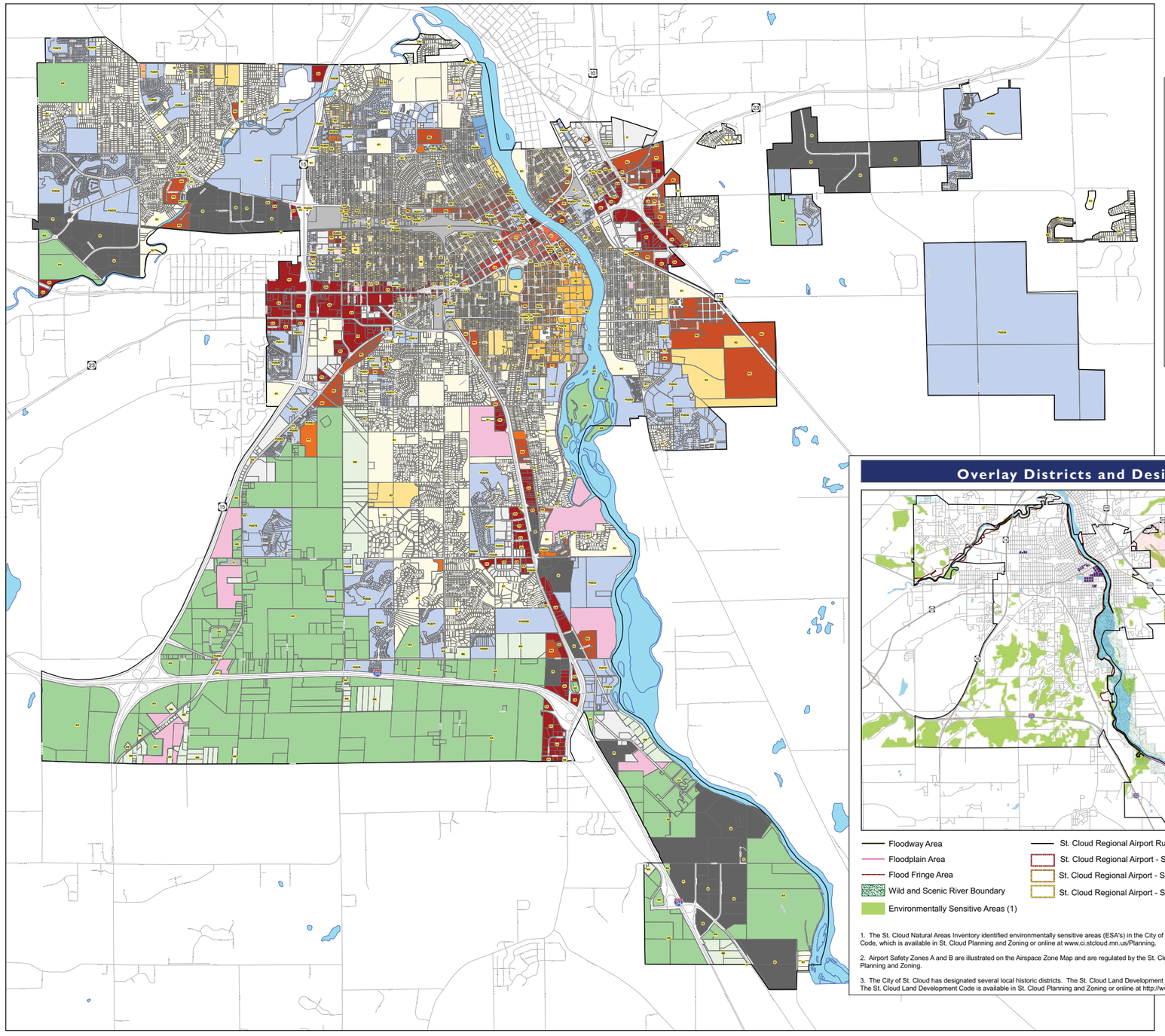
1 = This document was also identified during the third five-year review
X = IC is applicable and was identified
**N** = IC is applicable but was NOT identified in the January 2010 Title Search
-- = IC is not applicable

# Attachment 1

# Zoning Maps

City of St. Cloud Minnesota

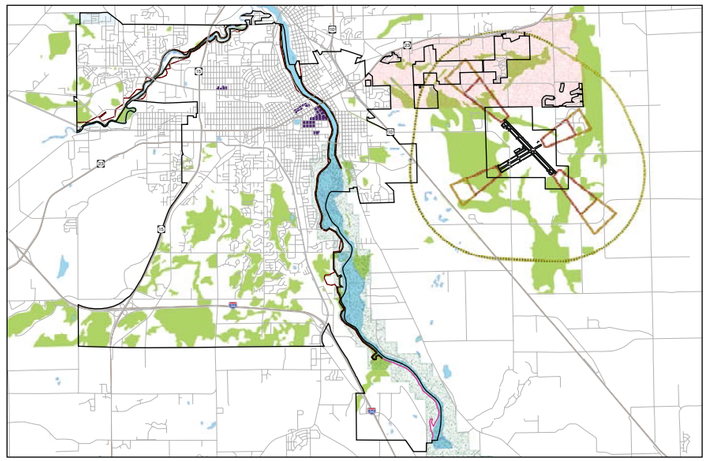
# 2009 Zoning Map of St. Cloud



## Zoning Classifications

- AG - Agricultural District
- C1 - Business Office District
- C2 - Neighborhood Commercial District
- C3 - Central Business District
- C4 - Fringe Central Business District
- C5 - Highway Commercial District
- I1 - Light Industrial District
- I2 - General Industrial District
- I3 - Planned Industrial District
- MD - Medical District
- PUD# - Planned Unit Development
- R1 - Single Family Residential District
- R2 - Single Family and Two Family Residential District
- R3 - Lodging House and Fraternity/Sorority House Residential District
- R3A - General Residential and Lodging House District
- R4 - Townhouse Residential District
- R5 - General Multi-Family Residential District
- R6 - Multi-Family Residential District
- R7 - High Rise Multi-Family Residential District
- RR - Rural Residential District
- Split Zoning - Contact St. Cloud Planning and Zoning at (320) 255-7218 for specific zoning information

## Overlay Districts and Designated Areas Map



- Floodway Area
- Floodplain Area
- Flood Fringe Area
- Wild and Scenic River Boundary
- Environmentally Sensitive Areas (1)
- St. Cloud Regional Airport Runway
- St. Cloud Regional Airport - Safety Zone A (2)
- St. Cloud Regional Airport - Safety Zone B (2)
- St. Cloud Regional Airport - Safety Zone C
- Local Historic Districts (4)
- Lesauk Orderly Annexation Area
- Minden Orderly Annexation Area
- City Limits
- Roads

1. The St. Cloud Natural Areas Inventory identified environmentally sensitive areas (ESA's) in the City of St. Cloud. The ESA's are regulated by the St. Cloud Land Development Code, which is available in St. Cloud Planning and Zoning or online at www.ci.stcloud.mn.us/Planning.

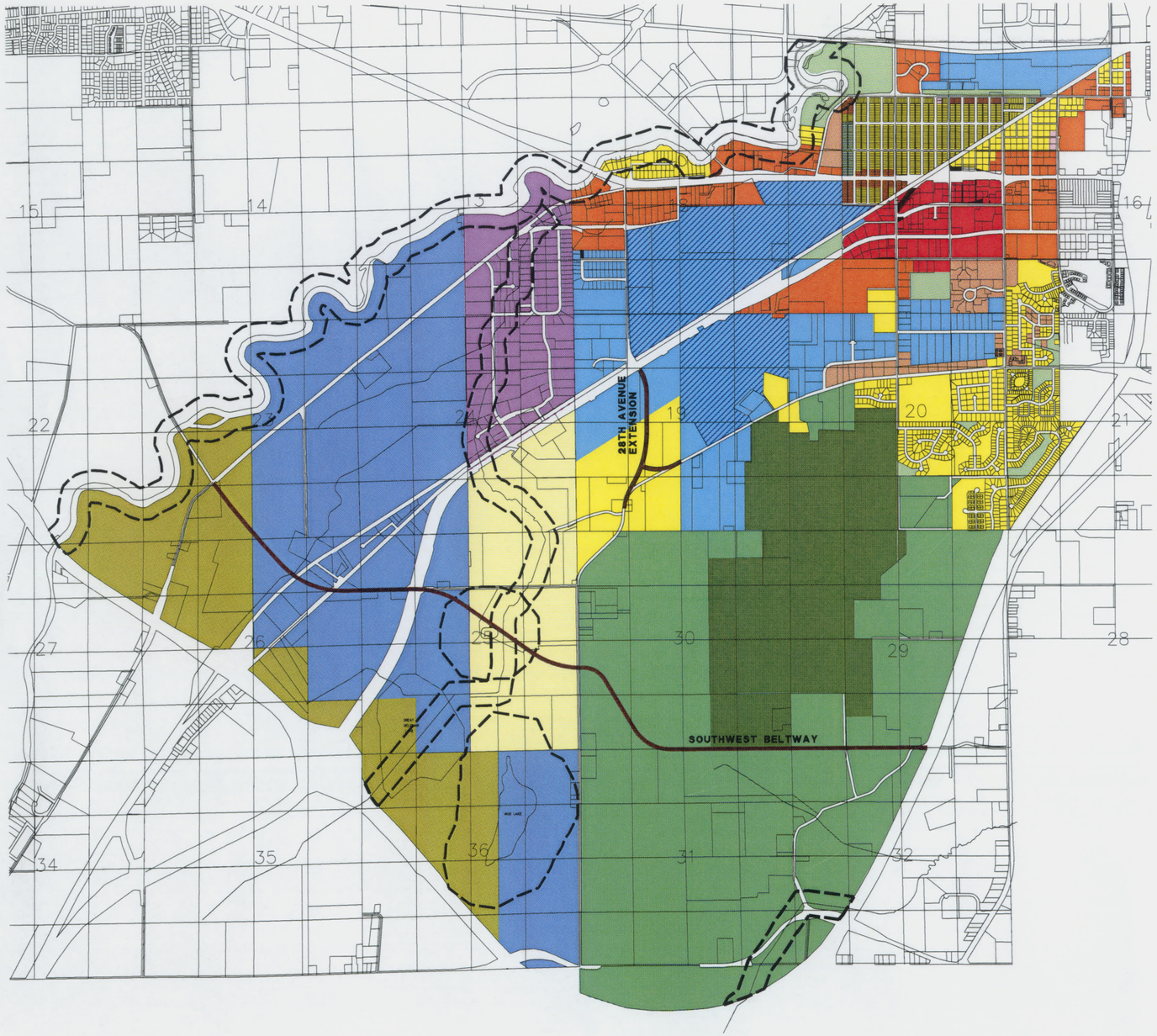
2. Airport Safety Zones A and B are illustrated on the Airspace Zone Map and are regulated by the St. Cloud Municipal Airport Zoning Ordinance, which is available in St. Cloud Planning and Zoning.

3. The City of St. Cloud has designated several local historic districts. The St. Cloud Land Development Code regulates exterior alterations to properties that are locally designated. The St. Cloud Land Development Code is available in St. Cloud Planning and Zoning or online at http://www.ci.stcloud.mn.us/Planning.

This map is neither a legally recorded map nor survey and is to be used only for reference purposes. The City of St. Cloud assumes no responsibility for actual or consequential damage incurred as a result of using this data.

0 0.5 1 Miles

Map prepared by St. Cloud Planning and Zoning, 02/09. Map updated through Ordinance No. 2409. K:\CityData\Planning\Projects\zoning\2009 zoning




# ZONING MAP

CITY OF WAITE PARK

SEH

N

Scale 1" = 3000'

February 2005

Revised February 2006

- R-1 SINGLE FAMILY RESIDENTIAL
- R-3 MULTIPLE FAMILY RESIDENTIAL
- R-R RURAL RESIDENTIAL
- B-1 NEIGHBORHOOD COMMERCIAL
- B-2 GENERAL COMMERCIAL
- B-3 2ND STREET SOUTH COMMERCIAL
- I-1 LIGHT INDUSTRIAL WITH A CONDITIONAL USE PERMIT FOR MINING
- I-1 INDUSTRIAL
- CITY PARK
- COUNTY PARK
- PROTECTED WATERS

ORDERLY ANNEXATION DATED MAY 29, 2001

- 0 TO 5 YEARS
- 6 TO 10 YEARS
- 11 TO 15 YEARS
- OVER 15 YEARS

DRAWING NAME: Y:\W\Waite\common\MAP\WpZoningmap11x17.dwg LAYOUT TAB: Layout1 PLOTTED: Feb 08, 2006 - 2:18pm

# Attachment 2

# Summary of Third Five-Year Review IC Documents

# Summary of Third Five Year Review IC Documents

## EM OU1

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| 669547 | 12/14/89 | 1/3/90 | Warranty Deed, from ABB to ME International, conveyed the EM site property (est. 45 acres), indicates the sale is subject to the exceptions contained in Exhibit B, which includes the Affidavit of Johann Wagner (Doc. No. 669550) |
| 669548 | 12/28/89 | 1/3/90 | Access Agreement, between M E International and ABB Power Distribution, Inc., gives MPCA and ABB access; refers to Request for Response Action (RFRA) issued in 1986; requires owner not interfere with actions or equipment; successive interests in the property subject to Access Agreement until agreement is terminated. |
| 669550 | 12/28/89 | 1/3/90 | Affidavit, Johann Wagener, describes actual and potential contamination on EM property pursuant to MERLA. |

## BN OU2

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| 602757 | 7/21/86 | 8/22/86 | Affidavit, Thomas J Patnode, describes actual and potential contamination on the BN property pursuant to MERLA; refers to Request for Response Action (RFRA) issued in 1985. |
| 602758 | 8/20/86 | 8/22/86 | Quit Claim Deed, From BN to City of Waite Park, conveys 126.4 acres; provides access to the property for BN for environmental purposes; indemnifies City of any and all cleanup costs for contaminants on the property. |
| 848214 | 3/20/97 | 6/26/97 | Quit Claim Deed, From City of Waite Park to BN, conveys about 1.5 acres subject to rights reserved to BN in Quit Claim Deed (Doc. No. 602758), and subject to Affidavit of Thomas J Patnode (Doc. No. 602757); the north part of the containment cell is located on this property since it is referred to in the Affidavit |

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| | | | of Richard Miller having the same legal description. |
| 848215 | 3/20/97 | 6/26/97 | Affidavit, Richard Miller, Mayor of Waite Park, describes soil contaminants for the containment cell on the property. |
| 848216 | 6/11/97 | 6/26/97 | Easement, from BN to Waite Park, for a roadway and utilities, subject to all existing interests; apparently for the road on the east and north of the containment cell. |
| 845329 | 5/6/97 | 5/16/97 | Easement and Declaration of Restrictions and Covenants, discloses previous contamination pursuant to MERLA on Exhibit 1 West River Business Park Block 1 Lots 1 – 7 and Block 2 Lots 1 – 3; cleanup status and cleanup levels in Exhibit 2; use restrictions limited to commercial and industrial; no extraction of ground water or excavation below ground water table; soils use restrictions for soils from Area 1 (all portions not contained in Areas 2 and 3), Area 2 (exhibits 3 and 4, approx. Block 1, Lots 1 and 2, and Block 2 Lot 1), and Area 3 (Exhibits 4 and 4a, area near Test Trench 3, approx Block 1, Lot 1); covenant not to violate restrictions; MPCA right of entry and enforcement; terms for modification; runs with property; excepted by MPCA 5/12/97 |
| Unknown | 5/1/01 | Unknown | Affidavit Concerning Real Property Contaminated with Hazardous Substances, Ronald Morton, Managing Partner, West River Business Park Partnership, L.L.P., discloses previous contamination pursuant to MERLA on Lots 6 and 7, Block 1, West River Business Park Addition; previous ownership by BN, BN sale to Waite Park; purchase of property from Waite Park in May 1996; VIC cleanup to depths of 4 feet, 4 feet 9 inches, and 2 feet 9 inches, with remaining contamination along a utility line on west line of Lot 6; and cleanup status; requirements to contact MPCA prior to activity which may affect the protectiveness or disturb the property; and notice of use restrictions limited to commercial or industrial purpose.<br>*[Note: this document was not found during the January 2010 Title Search.]* |
| Unknown | 10/16/01 | Unknown | Affidavit Concerning Real Property Contaminated with Hazardous Substances, Ronald Morton, General Partner, West River Business Park Partnership, L.L.P. and Westland Properties, Inc., discloses previous contamination pursuant to MERLA on Lots 2,3,4, and 5, Block 1, and Lots 1,2,and 3, Block 2, West River |

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| | | | Business Park Addition; previous ownership by BN, BN sale to Waite Park; purchase of property from Waite Park in May 1996; VIC cleanup; and cleanup status; requirements to contact MPCA prior to activity which may affect the protectiveness or disturb the property; and notice of use restrictions limited to commercial or industrial purpose.<br>*[Note: this document was not found during the January 2010 Title Search.]* |
| Unknown | 11/16/01 | Unknown | Affidavit Concerning Real Property Contaminated with Hazardous Substances, Ronald Morton, discloses previous contamination pursuant to MERLA on Lot 7, Block 1 West River Business Park Addition; previous ownership by BN, BN sale to Waite Park; purchase of property from Waite Park in May 1996; VIC cleanup; and cleanup status; requirements to contact MPCA prior to activity which may affect the protectiveness or disturb the property; and notice of use restrictions limited to commercial, industrial, and charter school and handicapped rehabilitation facility with no outdoor facilities.<br>*[Note: this document was not found during the January 2010 Title Search.]* |
| 996097 | 12/21/01 | 1/18/02 | Modification of Easement and Declaration of Restrictions and Covenants, declares Lot 7 Block 1 West River Business Park Addition is subject to an Easement and Declaration of Restrictions and Covenants granted by Waite Park (Doc No 845329); with Exhibit 1 (an Affidavit by Ron Morton dated 12/14/01, proposing use by a charter school, VIC cleanup to 4 feet, related to Affidavit dated 5/1/01); modifying the use restriction to allow use by a charter school; Affidavit by Ronald Morton dated 12/14/01 is attached; accepted by MPCA on 1/7/02. |

# Attachment 3

# Parcel Forms

651-291-0456
5 Empire Drive
St. Paul, MN 55103
www.baywest.com

The purpose of this title review is to ensure that the institutional controls applicable to properties located on Superfund site EPA #MND981002249 are effective and can be diseminated to the ownership and subordinate insterests at the property.

A title search shall include the current and the previous four past owners on the Burlington Northern parcels in Waite Park (or until Burlington Northern is listed as owner, whichever is less). A title seach on the EM parcels located in St Clourd shall include the current and the previous owners for the past 40 years. Also, please note recorded interests, subordinate agreements, easements/covenants, and other such information to aid in confirming the effectiveness of the institution control placed on the property. There are 30 parcels included in this Superfund site, the tax ID numbers are provided below in each worksheet tab.
Fill in the relavant information for each parcel electronically and return to Shaina Botka, shainab@baywest.com at Bay West.
Please attach supporting documentation for any notable findings (as described above).

651-291-0456
5 Empire Drive
St. Paul, MN 55103
www.baywest.com

# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 1 |
| Property PIN | 9861600 0000 |

| Current Owner on Record | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | |
| Duration of ownership | 8/22/89 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Burlington Northern |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information | |
|---|---|
| p.o. S1/2 8-124-28 | |

651-291-0456
5 Empire Drive
St. Paul, MN 55103
www.baywest.com

# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 2 |
| Property PIN | 9861390 0219 |

| Current Owner on Record | |
|---|---|
| Name | Ashland Property I LLC |
| Address | 2711 Centerville Rd |
| City | Wilmington |
| State | Delaware |
| Duration of ownership | 12/22/04 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | McDonalds Corporation |
| Address | One McDonald Plaza |
| City | Oak Brook |
| State | Illinois |
| Dates of ownership | 10/23/02 to 12/22/04 |

| 2nd Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | 821 W. St. Germain |
| City | St. Cloud |
| State | MN |
| Dates of ownership | 6/1/99 to 10/23/02 |

| 3rd Previous Owner | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | 821 W St. Germain |
| City | St. Cloud |
| State | MN |
| Dates of ownership | 5/16/97 to 6/1/99 |

| 4th Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | MN |
| Dates of ownership | 8/22/86 to 5/16/97 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 645944 | Easement, dated 8/18/88, filed 9/28/88, no discussion of environmental issues |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1028764 | Easement, dated 8/23/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1137822 | Mortgage, dated 6/1/04, filed 12/22/04 |
| | |
| | |
| | Platted Easements as shown on Plats West River Business Park and West River Business Park Two |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | Lease |
| Name | McDonalds Corporation |
| Address | One McDonald Plaza |
| City | Oak Brook |
| State | IL |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 1, Block 1, West River Business Park Two |

651-291-0456
5 Empire Drive
St. Paul, MN 55103
www.baywest.com

# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 3 |
| Property PIN | 9861390 0220 |

| Current Owner on Record | |
|---|---|
| Name | Westland Properties, LLP |
| Address | 821 W. St. Germain St |
| City | St Cloud |
| State | MN |
| Duration of ownership | 6/1/99 - Present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | West River Buisness Park Partnership LLP |
| Address | 821 W. St. Germain St |
| City | St. Cloud |
| State | MN |
| Dates of ownership | 5/16/97 - 6/1/99 |

| 2nd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | MN |
| Dates of ownership | 8/22/86 - 5/16/97 |

| 3rd Previous Owner | |
|---|---|
| Name | The St. Paul, Minneapolis, & Manitoba Railway |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/1/1887 - 8/22/1986 |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 645944 | Easement, dated 8/18/88, filed 9/28/88, no discussion of environmental issues |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1028764 | Easement, dated 8/23/02, filed 10/23/02, no discussion of environmental issues |
| | |
| | Platted easements as shown on plats of West River Business Park and West River Business Park Two |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 2, Block 1, West River Business Park Two |

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5 Empire Drive
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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 4 |
| Property PIN | 9861390 0200 |

| Current Owner on Record | |
|---|---|
| Name | C Anderson, LLP |
| Address | N Anderson, LLP |
| City | |
| State | |
| Email | |
| Duration of ownership | 4/18/03 to present |
| | doc no 1072057 |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Email | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Charles G Anderson |
| Address | and Nancy F. Anderson |
| City | |
| State | |
| Dates of ownership | 12/5/02 to 4/18/03 |
| | doc nos 1070055 & 1070057 |

| 2nd Previous Owner | |
|---|---|
| Name | West River Business Park, L.L.P. |
| Address | |
| City | |
| State | |
| Dates of ownership | 5/13/97 to 12/5/02 |
| | doc no 845330 |

| 3rd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 5/13/97 |

| 4th Previous Owner | |
|---|---|
| Name | Burlington Northern Rail Road |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 12216737 | UCC Financing Statement, filed 5/8/07 |
| | |
| 1286440 | Mortgage dated 5/5/09, filed 5/11/09 |
| | |
| | Utility and drainage easements as shown on the recorded plat of West River Business Park |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 1, Block 1, West River Business Park |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 5 |
| Property PIN | 9861390 0206 |

| Current Owner on Record | |
|---|---|
| Name | John A Litfin |
| Address | |
| City | |
| State | |
| Duration of ownership | 10/28/04 to present |
| | doc no 132008 |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 4/30/99 to 10/28/01 |
| | doc no 909824 |

| 2nd Previous Owner | |
|---|---|
| Name | West River Business Park, L.L.P. |
| Address | |
| City | |
| State | |
| Dates of ownership | |
| | doc no 845330 |

| 3rd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | |
| | doc no 602758 |

| 4th Previous Owner | |
|---|---|
| Name | Burlington Northern |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 645944 | Easement, dated 8/18/88, filed 9/28/88, no discussion of environmental issues |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1028764 | Easement, dated 8/23/02, filed 10/23/02, no discussion of environmental issues |
| | |
| | Easements for utilities & drainage as shown on the recorded plat of West River Business Park |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 4, Block 1, West River Business Park |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 6 |
| Property PIN | 9861390 0208 |

| Current Owner on Record | |
|---|---|
| Name | West River Business Park Limited Liability Part. |
| Address | |
| City | |
| State | |
| Duration of ownership | 6/4/04 - present |
| | doc no 1125614 |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 4/30/99 - 6/4/04 |
| | doc no 909824 |

| 2nd Previous Owner | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 5/13/97 - 4/30/99 |
| | doc no 845330 |

| 3rd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 5/13/97 |
| | doc no 602758 |

| 4th Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/87/1887 - 8/20/86 |

**Recorded Interests**

| Doc. No. | Description |
|---|---|
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1125616 | Mortgage, dated 7/1/04, filed 9/7/04 |
| | |
| 1125617 | Assignment of rents, dated 7/1/04, filed 9/7/04 |
| | |
| 1292126 | Modification of mortgage, dated 6/1/09, filed 7/9/09 |
| | |
| | |
| | Utility and drainage easements as shown on the plat of West River Business Park |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | IRET Properties |
|---|---|
| Type of Interest: | Right of First Refusal |
| Name | |
| Address | |
| City | |
| State | North Dakota |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

**Notes/Additional Information**

Lot 5, Block 1, West River Business Park

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 7 |
| Property PIN | 9861390 0210 |

| Current Owner on Record | |
|---|---|
| Name | IRET Properties, a North Dakota Limited Partnership |
| Address | 12 S Main |
| City | Minot |
| State | North Dakota |
| Duration of ownership | 7/1/03 - present |
| | doc no 1068678 |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 5/13/97 - 7/1/03 |

| 2nd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 5/13/97 |

| 3rd Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/27/1887 - 8/20/86 |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1136469 | Mortgage, dated 12/7/04, filed 12/10/04 |
| | |
| 1136470 | Assignment of leases and rents, dated 12/7/04, filed 12/10/04 |
| | |
| 1136471 | UCC Financing statement, filed 12/10/04 |
| | |
| 1292612 | continuation filed 7/14/09 |
| | |
| | Utility and drainage easement as shown on the plat of West River Business Park |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 6, Block 1, West River Business Park |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 8 |
| Property PIN | 9861390 0007 |

| Current Owner on Record | |
|---|---|
| Name | West River Business Park |
| Address | Condominium Owners Association, Inc. |
| City | 800 Industrial Dr |
| State | Sauk Rapids, MN 56379 |
| Duration of ownership | 8/2/05 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 5/16/97 - 8/2/05 |

| 2nd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | |
| Dates of ownership | 8/22/86 - 5/16/97 |

| 3rd Previous Owner | |
|---|---|
| Name | The St. Paul, Minneapolis, and Manitoba |
| Address | Railway |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 996097 | Modification of Easement and Declaration of Restrictions and Covenants, dated 12/21/01, filed 1/18/02, |
| | includes discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1158562 | Cross Access and parking easement, dated 6/29/05, filed 6/29/05, no discussion of environmental issues |
| | |
| 1163067 | Common Interest Community Declaration, dated 8/2/05, filed 8/2/05, includes reference to environmental issues |
| | |
| 1163068 | Common Interest Community By Laws |
| | |
| 1184784 | Corrective Declaration, dated 8/2/05, filed 2/10/06, includes reference to environmental issues |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Common elements, West River Business Park |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 9 |
| Property PIN | 9861600 0030 |

| Current Owner on Record | |
|---|---|
| Name | James Blommer and Dorothy Blommer, |
| Address | or successors as Trustees of the |
| City | James Blommer Trust under agreement |
| State | dated 9/14/98 |
| Duration of ownership | 6/21/02 - present |
| | 1/2 interest |

| Co-owner (if applicable) | |
|---|---|
| Name | James Blommer and Dorothey Blommer |
| Address | or successors as Trustees of the |
| City | Dorothy Blommer Trust under |
| State | agreement dated 9/14/98 |
| Dates of ownership | 6/21/02 - present |
| | 1/2 interest |

| 1st Previous Owner | |
|---|---|
| Name | Park Press Quality Printing, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 1/2/00 - 6/21/02 |

| 2nd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/28/87 - 1/2/00 |

| 3rd Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad Co |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/22/1886 - 8/20/87 |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 618025 | Mortgage, dated 5/5/87, filed 5/5/87, no discussion of environmental issues |
| | |
| 618026 | Assignment of rents and leases, dated 5/1/87, filed 5/5/87, no discussion of environmental issues |
| | |
| 722920 | Mortgage, dated 7/10/92, filed 7/16/92, no discussion of environmental issues |
| | |
| 850035 | Modification of mortgage, dated 7/10/97, filed 7/22/97, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| SWSE 8-124-28 part of |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 10 |
| Property PIN | 9861390 0222 |

| Current Owner on Record | |
|---|---|
| Name | West Path, LLC, |
| Address | a Minnesota Limited Liability Company |
| City | |
| State | |
| Duration of ownership | 10/27/04 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | West River Business Park, LLP |
| Address | a Minnesota Limited Liability Company |
| City | |
| State | |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 2nd Previous Owner | |
|---|---|
| Name | Ron Marton Family |
| Address | Limited Partnership, LLP |
| City | a Minnesota Limited Liability |
| State | limited partnership |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 3rd Previous Owner | |
|---|---|
| Name | Ronald A Morton |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 4th Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 4/30/99 - 10/27/04 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1133088 | Mortgages, dated 11/4/04, filed 11/9/04 |
| | |
| 1133089 | UCC Financing statement, filed 11/4/09 |
| | |
| 1292815 | Assignment of rents, dated 7/9/09, filed 7/15/09 |
| | |
| 1158562 | Easement, dated 6/29/05, filed 6/29/05, no discussion of environmental issues |
| | |
| | |
| | Utilities & drainage easements as shown on the recorded plant of West River Business Park Three |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| Party 1: | | Party 2: | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |
| State | | State | |

| Notes/Additional Information |
|---|
| Lot 2, Block 1, West River Business Park Three |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 11 |
| Property PIN | 9860867 0100 |

| Current Owner on Record | |
|---|---|
| Name | West Path, LLC |
| Address | 800 Industrial Drive |
| City | Sauk Rapids |
| State | MN |
| Duration of ownership | 10/27/04 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | 1133084 |
| Address | 1133035 |
| City | 1133081 |
| State | 1133087 |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Ron Morton Family Limited Partnership |
| Address | 509 Brook Lane |
| City | St. Cloud |
| State | MN |
| Dates of ownership | 10/21/04 - 10/27/04 |

| 2nd Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | 821 St Germain St W |
| City | St Cloud |
| State | MN |
| Dates of ownership | 4/30/99 - 10/21/04 |

| 3rd Previous Owner | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | 821 W St Germain |
| City | St Cloud |
| State | MN |
| Dates of ownership | 5/16/97 - 4/30-99 |

| 4th Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | MN |
| Dates of ownership | 8/22/86 - 5/16/97 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 996097 | Modification of Easement and Declaration of Restrictions and Covenants, dated 12/21/01, filed 1/18/02, |
| | includes discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1133088 | Mortgage with Falcon National Bank, dated 11/4/04, filed 11/9/04 |
| | |
| 1133089 | UCC Financing Statement, filed 11/9/04 |
| | |
| 1158562 | Easement, dated 6/29/05, filed 6/29/05, no discussion of environmental issues |
| | |
| 1193858 | Modification of mortgage with Falcon National Bank |
| | |
| 1231085 | Modification of mortgage with Falcon National Bank |
| | |
| 1231085 | Modification of mortgage with Falcon National Bank |
| | |
| 1254316 | Modification of mortgage with Falcon National Bank |
| | |
| 1292814 | Modification of mortgage with Falcon National Bank |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Unit 1, The Offices at West River, Common Interest Community No. 73, a Condominium, Stearns County, Minnesota |

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5 Empire Drive
St. Paul, MN 55103
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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 12 |
| Property PIN | 9861390 0223 |

| Current Owner on Record | |
|---|---|
| Name | West Path, LLC |
| Address | a Minnesota Limited Liability Company |
| City | |
| State | |
| Duration of ownership | 10/27/04 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | West River Business Park, LLP |
| Address | a Minnesota Limited Liability Partnership |
| City | |
| State | |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 2nd Previous Owner | |
|---|---|
| Name | Ron Morton Family Limited Partnership, LLP |
| Address | a Minnesota Limited Liability Partnership |
| City | |
| State | |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 3rd Previous Owner | |
|---|---|
| Name | Ronald A. Morton |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/27/04 - 10/27/04 |

| 4th Previous Owner | |
|---|---|
| Name | Westland Properties, LLP |
| Address | |
| City | |
| State | |
| Dates of ownership | 4/30/99 - 10/27/04 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845329 | Covenent, dated 5/13/97, filed 5/16/97, includes discussion of environmental issues |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1028763 | Restrictive Covenent, dated 5/1/02, filed 10/23/02, no discussion of environmental issues |
| | |
| 1133088 | Mortgage with Falcon National Bank, dated 11/4/04, filed 11/9/04 |
| | |
| 1133089 | UCC Financing Statement, filed 11/9/04 |
| | |
| 129815 | Assignment of rents, dated 7/9/09, filed 7/15/09 |
| | |
| 1158562 | Easement, dated 6/29/05, filed 6/29/05, no discussion of environmental issues |
| | |
| | |
| | |
| | |
| | Utilities & drainage easements as shown on the recorded plat of West River Business Park Three |
| | |
| | |
| | |
| | |
| | |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 3, Block 1, West River Business Park Three |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 13 |
| Property PIN | 9861390 0214 |

| Current Owner on Record | |
|---|---|
| Name | West River Business Park Partnership, LLP |
| Address | |
| City | |
| State | |
| Duration of ownership | 5/13/97 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 5/13-97 |

| 2nd Previous Owner | |
|---|---|
| Name | The St Paul Minneapolis Manitoba Railway |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/22/1886 - 8/20/86 |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 863401 | Covenents and Restrictions, dated 9/11/97, filed 1/23/98, no discussion of environmental issues |
| | |
| 1035785 | Mortgage, dated 9/15/03, filed 10/16/03 |
| | |
| | |
| | Easements for utilities & drainage as shown on the recorded plat of West River Business Park |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 1, Block 2, West River Business Park, less parcel No. 40 of Stearns County Right of Way Plat No. 17 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 14 |
| Property PIN | 9861600 0035 |

| Current Owner on Record | |
|---|---|
| Name | Waite Park Manufacturing, Inc |
| Address | 430 N 7th Ave |
| City | Waite Park |
| State | MN |
| Duration of ownership | 2/21/95 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | |
| Dates of ownership | 8/22/89 - 2/21/95 |

| 2nd Previous Owner | |
|---|---|
| Name | The St. Paul Minneapolis |
| Address | and Manitoba Railway Company |
| City | |
| State | |
| Dates of ownership | 10/7/1887 - 8/22/86 |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 845331 | Easement, dated 5/13/97, filed 5/16/97, no discussion of environmental |
| | |
| 848214 | Restrictions and reservations |
| | |
| 1267943 | Final Certificate in Condemnation, dated8/20/08, filed 8/29/08, no discussion of environmental issues |
| | |
| 1270882 | Amended Final Certificate in Condemnation, filed 10/23/08, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information | |
|---|---|
| p.o. s 1/2 SE 1/4 8-124-28 | |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 15 |
| Property PIN | 9861600 0025 |

| Current Owner on Record | |
|---|---|
| Name | Waite Park Manufacturing, Inc. |
| Address | 430 N 7th Ave |
| City | Waite Park |
| State | |
| Duration of ownership | 11/14/89 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | |
| Dates of ownership | 11/14/89 - 11/14/89 |

| 2nd Previous Owner | |
|---|---|
| Name | Watab, Inc. |
| Address | 600 N 5th St |
| City | St. Cloud |
| State | MN |
| Dates of ownership | 8/22/89 - 11/14/89 |

| 3rd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | The St. Paul Minnesota & Manitoba Railway |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 602786 | Contract for Deed, dated 8/22/86, filed 8/22/86, no discussion of environmental issues |
| | |
| 668002 | Contract for Deed, dated 11/14/89, filed 12/6/89, no discussion of environmental issues |
| | |
| 786882 | Quit Claim Deed, dated 11/15/94, filed 11/23/94, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information | |
|---|---|
| | |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 16 |
| Property PIN | 9861600 0037 |

| Current Owner on Record | |
|---|---|
| Name | Theisen Design and Manufacturing, Inc. |
| Address | |
| City | |
| State | |
| Duration of ownership | 4/10/90 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | The City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 4/10/90 |

| 2nd Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad Company |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/22/1886 - 8/20/1986 |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 685222 | Quit Claim Deed, dated 4/10/90, filed 10/19/90, includes discussion of environmental issues |
| | |
| | |
| | |
| | |
| | Easements for roadway |
| | |
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| | |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information | |
|---|---|
| SE1/4SE1/4 8-124-28 part of | |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 17 |
| Property PIN | 9861600 0038 |

| Current Owner on Record | |
|---|---|
| Name | Thomas Ardolf & Susan Ardolf |
| Address | |
| City | |
| State | |
| Duration of ownership | 11/30/92 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | The City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 6/5/91 - 11/30/92 |

| 2nd Previous Owner | |
|---|---|
| Name | Michael M Murphy and Delores A Murphy |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/18/90 - 6/5/91 |

| 3rd Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/20/86 - 12/18/90 |

| 4th Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad Company |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/22/1886 - 8/20/86 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 767620 | Mortgage, dated 1/27/94, filed 2/3/94, no discussion of environmental issues |
| | |
| 839430 | extension of mortgage, dated 2/13/97, filed 2/14/97, no discussion of environmental issues |
| | |
| 908733 | electric distribution easement, 5/13/99, filed 5/19/99, no discussion of environmental issues |
| | |
| 911165 | mortgage, dated 6/10/99, filed 6/15/99, no discussion of environmental issues |
| | |
| 931363 | extension of mortgage, dated 2/11/00, filed 2/14/00, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information | |
|---|---|
| | |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 18 |
| Property PIN | 9861600 0045 |

| Current Owner on Record | |
|---|---|
| Name | St. Cloud Amateur Radio Club, Inc. |
| Address | 401 4th St N |
| City | Waite Park |
| State | MN 56387 |
| Duration of ownership | 6/5/01 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | The Burlington Northern & |
| Address | Sante Fe Railway Company |
| City | |
| State | |
| Dates of ownership | 8/20/1886 - 6/5/01 |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 848215 | Affidavit [need copy] |
| | |
| 848216 | Easement, dated 10/11/97, filed 6/27/97, no discussion of environmental issues |
| | |
| 984975 | Easement, dated 10/9/01, filed 10/19/01, no discussion of environmental issues |
| | |
| 984976 | Easement, dated 10/9/01, filed 10/19/01, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| part of the SE 1/4 SE 1/4 Section 8, Township 124, Range 28 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 19 |
| Property PIN | 9861600 0039 |

| Current Owner on Record | |
|---|---|
| Name | City of Waite Park |
| Address | City Hall |
| City | Waite Park |
| State | |
| Dates of ownership | |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | Burlington Northern Railroad Company |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, includes discussion of environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | Unrecorded lease |
| Name | dated 10/1/90 as |
| Address | referenced by |
| City | Stearns County |
| State | Auditors Transfer Books |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| P.O. SE1/4 SE1/4 8-124-28 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 20 |
| Property PIN | 9861600 0900 |

**This parcel does not exist in the Stearns County system.**

| Current Owner on Record | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Duration of ownership | |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
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| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| **Party 1:** | | **Party 2:** | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |
| State | | State | |

| Notes/Additional Information | |
|---|---|
| This parcel does not exist in the Stearns Coutny system. | |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 21 |
| Property PIN | 9861600 0001 |

| Current Owner on Record | |
|---|---|
| Name | BNSF Railway Company |
| Address | 2500 Lou Meeck Drive |
| City | Fort Worth, TX |
| Duration of ownership | |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| Duration of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | City of Waite Park |
| Address | |
| City | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, discussions environmental issues |
| | |
| 602758 | Quit Claim deed, dated 8/20/86, filed 8/22/86, from BN to Waite Park, includes discussion of contamination |
| | |
| 670380 | Order on Annexation, dated 12/18/89, filed 1/18/90, no discussion of environmental issues |
| | |
| 931310 | Stearns County ROW Plat 17, filed 3/20/01, no discussion of environmental issues |
| | |
| 982197 | Easement, dated 9/4/01, filed, 9/27/01, for Qwest, no discussion of environmental issues |
| | |
| 998011 | Easement, dated 9/21/02, filed 2/5/02, for Qwest, no discussion of environmental issues |
| | |
| 1169484 | Easement, dated 9/9/05, filed 9/23/05, no discussion of environmental issues |
| | |
| 1242648 | Release of Easement, dated 7/23/07, filed 11/1/07, from Qwest, no discussion of environmental issues |
| | |
| 1270066 | Easement, dated 6/20/08, filed 10/10/08, for Waite Park, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |

| Notes/Additional Information |
|---|
| Parcel no 98.61600.0001 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 22 |
| Property PIN | 98616449 0008 |

**This parcel does not exist in the Stearns County system**

| Current Owner on Record | |
|---|---|
| Name | |
| Address | |
| City | |
| Duration of ownership | |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
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| | |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| Party 1: | | Party 2: | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |

| Notes/Additional Information | |
|---|---|
| This parcel does not exist in the Stearns County system. | |

651-291-0456
5 Empire Drive
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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 23 |
| Property PIN | 8247033 0012 |

| Current Owner on Record | |
|---|---|
| Name | Grede-St. Cloud, Inc. |
| Address | aka |
| City | Grede Foundries, Inc. |
| Duration of ownership | 9/15/95 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | ME International, Inc. |
| Address | a Corp of Michigan |
| City | |
| Dates of ownership | 9/14/95 - 9/15/95 |

| 2nd Previous Owner | |
|---|---|
| Name | ME International |
| Address | a general partnership |
| City | |
| Dates of ownership | 12/28/89 - 9/14/95 |

| 3rd Previous Owner | |
|---|---|
| Name | ABB Power Distribution Inc. |
| Address | |
| City | |
| Dates of ownership | 2/15/88 - 12/28/89 |

| 4th Previous Owner | |
|---|---|
| Name | Brown Bover, Turbomachinery, Inc. |
| Address | |
| City | |
| Dates of ownership | 12-30-77 - 2/15/88 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 669547 | Warranty Deed, dated 12/14/89, filed 1/3/90, refers to other documents and affidavits (some environmental) |
| | |
| 803664 | Shared Wall Agreement, dated 9/15/95, filed 9/20/95, no discussion of environmental issues |
| | |
| 803666 | Access Agreement, dated 9/15/95, filed 9/20/95, includes discussion of environmental issues |
| | |
| 845793 | Varience, filed 5/23/97, no discussion of environmental issues |
| | |
| 1094184 | Roadway easement agreement, dated 12/12/03, filed 12/22/03, no discussion of environmental issues |
| | |
| 1209598 | UCC Financing Statement, filed 10/20/06, no discussion of environmental issues |
| | |
| 1209599 | UCC Financing Statement, filed 10/20/06, no discussion of environmental issues |
| | |
| 121118 | Mortgage, dated 10/27/06, filed 11/7/06, no discussion of environmental issues |
| | |
| 121119 | Mortgage, dated 10/27/06, filed 11/7/06 ,no discussion of environmental issues |
| | |
| 1211121 | UCC Financing Statement, filed 11/7/06 , no discussion of environmental issues |
| | |
| 1279257 | Utility easement agreement, dated 2/13/09, filed 2/23/09, no discussion of environmental issues |
| | |
| 1280225 | Mechanics Lien Statement, dated 3/3/09, filed 3/4/09, no discussion of environmental issues |
| | |
| 1306284 | Assignment of Mortgage, dated 11/25/09, filed 12/29/09, no discussion of environmental issues |
| | |
| 1306285 | Assignment of UCC Financing Statement, filed 12/29/09, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |
| MN | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |
| MN | |

| Notes/Additional Information |
|---|
| Lot 3, Block 1, Foundry Addition |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 24 |
| Property PIN | 8247033 0013 |

| Current Owner on Record | |
|---|---|
| Name | Grede-St. Cloud, Inc. |
| Address | aka |
| City | Grede Foundries, Inc. |
| State | |
| Duration of ownership | 7/15/95 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | ME International, Inc. |
| Address | a corp. of Michigan |
| City | |
| State | |
| Dates of ownership | 9/14/95 - 9/15/95 |

| 2nd Previous Owner | |
|---|---|
| Name | ME International |
| Address | a general partnership |
| City | |
| State | |
| Dates of ownership | 12/28/89 - 9/14-95 |

| 3rd Previous Owner | |
|---|---|
| Name | ABB Power Distribution,Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 2/15/88 - 12/28/89 |

| 4th Previous Owner | |
|---|---|
| Name | Brown Boven Turbo Machinery, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/30/77 - 2/15-/88 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 803664 | Shared Wall Agreement, dated 9/15/95, filed 9/20/95, no discussion of environmental issues |
| | |
| 803665 | Utility easement agreement, filed 9/20/95, no discussion of environmental issues |
| | |
| 803666 | Access agreement, dated 9/15/95, filed 9/20/95, includes discussion of environmental issues |
| | |
| 806160 | Variance, filed 10/25/90, no discussion of environmental issues |
| | |
| 819604 | Variance, filed 5/15/96, no discussion of environmental issues |
| | |
| 845793 | Varience, filed 5/23/97, no discussion of environmental issues |
| | |
| 1209598 | UCC Financing Statement, filed 10/20/06 |
| | |
| 1209599 | UCC Financing Statement, filed 10/20/06 |
| | |
| 1211118 | Mortgage dated 10/27/06, filed 11/7/06 |
| | |
| 1211119 | Mortgage, dated 10/27/06, filed 11/7/06 |
| | |
| 121121 | UCC Financing Statement, filed 11/6/06 |
| | |
| 1279257 | Utility easement agreement, dated 2/13/09, filed 2/23/09, no discussion of environmental issues |
| | |
| 1306225 | Mechanics Lien Statement dated 3/3/09, filed 3/4/09 |
| | |
| 1306284 | Assignment of Mortgage, dated 11/25/09, filed 12/29/09 |
| | |
| 1306285 | Assignment of UCC Financing statement, filed 12/29/09 |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |

| Notes/Additional Information |
|---|
| Lot 4, Block 1, Foundry Addition |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 25 |
| Property PIN | 8252980 0007 |

| Current Owner on Record | |
|---|---|
| Name | Burlington Northern Inc. |
| Address | fka St. Paul, Minneapolis & |
| City | Manitoba Railway |
| State | |
| Duration of ownership | 8/25/1887 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, discussions environmental issues |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| Party 1: | | Party 2: | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |

| Notes/Additional Information |
|---|
| Parcel no 82.52980.0007 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 26 |
| Property PIN | 9861499 0004 |

| Current Owner on Record | |
|---|---|
| Name | Burlington Northern Inc. |
| Address | fka St. Paul, Minneapolis & |
| City | Manitoba Railway |
| State | |
| Duration of ownership | 8/25/1887 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 2nd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 3rd Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 602757 | Affidavit of Thomas J. Patnode, dated 8/20/86, filed 8/22/86, discussions environmental issues |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| Party 1: | | Party 2: | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |

| Notes/Additional Information |
|---|
| parcel no 98.61499.0007 |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 27 |
| Property PIN | 8247033 0011 |

| Current Owner on Record | |
|---|---|
| Name | Corner Investments, LLC |
| Address | |
| City | |
| State | |
| Duration of ownership | 2/16/98 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | ME International, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 9/14/95 - 2/16/98 |

| 2nd Previous Owner | |
|---|---|
| Name | ME International, a Minnesota Partnership |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/28/89 - 9/14/95 |

| 3rd Previous Owner | |
|---|---|
| Name | ABB Power Distribution Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/28/1989 |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 411956 | Agreement, dated 7/23/70, filed 11/10/70, no discussion of environmental issues |
| | |
| 669548 | Access Agreement, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 669550 | Affidavit, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 802960 | Subdivisions Agreement, dated 7/31/95, filed 9/12/95, no discussion of environmental issues |
| | |
| 803664 | Shared Wall Agreement, dated 9/15/95, filed 9/20/95, no discussion of environmental issues |
| | |
| 803665 | Utility easement agreement, filed 9/20/95, no discussion of environmental issues |
| | |
| 811080 | Lease, dated 12/18/95, filed 1/9/96, no discussion of environmental issues |
| | |
| 1209598 | UCC Financing Statement, filed 10/20/06, no discussion of environmental issues |
| | |
| 1209599 | UCC Financing Statement, filed 10/20/06 , no discussion of environmental issues |
| | |
| 121118 | Mortgage, dated 10/27/06, filed 11/7/06, no discussion of environmental issues |
| | |
| 121119 | Mortgage, dated 10/27/06, filed 11/7/06, no discussion of environmental issues |
| | |
| 1256110 | Mortgage, dated 4/22/08, filed 4/22/08, no discussion of environmental issues |
| | |
| 1256111 | UCC Financing, dated 4/22/08, filed 4/22/08, no discussion of environmental issues |
| | |
| 1276349 | Articles of Merger, dated 1/28/08, filed 1/7/09, no discussion of environmental issues |
| | |
| 1279257 | Utility easement agreement, dated 2/13/09, filed 2/23/09, no discussion of environmental issues |
| | |
| 1306284 | Assignment of Mortgage, dated 11/25/09, filed 12/29/09, no discussion of environmental issues |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| Party 1: | | Party 2: | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |
| State | | State | |

| Notes/Additional Information |
|---|
| Lot 2, Block 1, Foundry Addition |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 28 |
| Property PIN | 8247182 0100 |

| Current Owner on Record | |
|---|---|
| Name | North Tier Landco, LLC |
| Address | |
| City | |
| State | |
| Duration of ownership | 4/16/98 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | ME International, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 9/14/95 - 4/16/98 |

| 2nd Previous Owner | |
|---|---|
| Name | ME International, a Minnesota partnership |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/28/89 - 9/14/95 |

| 3rd Previous Owner | |
|---|---|
| Name | ABB Power Distribution, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 12/28/1989 |

| 4th Previous Owner | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 411956 | Agreement, dated 7/23/70, filed 11/10/70, no discussion of environmental issues |
| | |
| 450372 | Utility Easement, dated 11/7/74, filed, 11/27/74, no discussion of environmental issues |
| | |
| 669548 | Access Agreement, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 669550 | Affidavit, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 802960 | Subdivisions Agreement, dated 7/31/95, filed 9/12/95, no discussion of environmental issues |
| | |
| 878750 | Lease, dated 6/4/98, filed 7/7/98, no discussion of environmental issues |
| | |
| 878751 | Mortgage, dated 6/4/98, filed 7/7/98, contains reference to environmental documents |
| | |
| 878752 | property Inspection Easement, dated 6/4/98, filed 7/7/98, no discussion of environmental issues |
| | |
| 1016329 | Mortgage, dated 7/3/02, filed 7/11/02, contains reference to environmental documents |
| | |
| 1046227 | UCC Financing Statement, filed 2/24/03, no discussion of environmental issues |
| | |
| 1047244 | UCC Financing Statement, filed 3/3/03, no discussion of environmental issues |
| | |
| 1237482 | UCC Financing Statement Amendment, filed 9/5/07, no discussion of environmental issues |
| | |
| 1237483 | UCC Financing Statement Amendment, filed 9/5/07, no discussion of environmental issues |
| **Subordinate Interests (leases, contract for deed sales, etc.)** | |

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 1,Block 1 Goodin |

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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 29 |
| Property PIN | 8249104 0000 |

| Current Owner on Record | |
|---|---|
| Name | NRB Properties, LLC |
| Address | |
| City | |
| State | |
| Duration of ownership | 10/4/04 to present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | NRB Properties, a Minnesota Partnership |
| Address | |
| City | |
| State | |
| Dates of ownership | 7/7/02 - 10/4/01 |

| 2nd Previous Owner | |
|---|---|
| Name | Cornerstone Construction of St. Cloud, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 7/1/02 - 7/1/02 |

| 3rd Previous Owner | |
|---|---|
| Name | Dan G Feneis |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/3/00 - 7/1/02 |

| 4th Previous Owner | |
|---|---|
| Name | North Tier Landco, LLC |
| Address | |
| City | |
| State | |
| Dates of ownership | 4/16/98 - 8/3/00 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| | |
| 411956 | Agreement, dated 7/23/70, filed 11/10/70, no discussion of environmental issues |
| | |
| 450372 | Utility Easement, dated 11/7/74, filed, 11/27/74, no discussion of environmental issues |
| | |
| 669548 | Access Agreement, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 669550 | Affidavit, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 802960 | Subdivisions Agreement, dated 7/31/95, filed 9/12/95, no discussion of environmental issues |
| | |
| 10249999 | Mortgage, dated 1/30/02, filed 11/1/02 |
| | |
| 1046227 | UCC Financing Statement, filed 2/24/03, no discussion of environmental issues |
| | |
| 1047244 | UCC Financing Statement, filed 3/3/03, no discussion of environmental issues |
| | |
| 1156898 | Mortgage and Assignments of Rents, dated 6/14/05, filed 6/15/05,no discussion of environmental issues |
| | |
| 1237482 | UCC Financing Statement Amendment, filed 9/5/07, no discussion of environmental issues |
| | |
| 1237483 | UCC Financing Statement Amendment, filed 9/5/07, no discussion of environmental issues |
| | |
| 1248015 | Amended Mortgage, filed 1/11/08, no discussion of environmental issues |

| Subordinate Interests (leases, contract for deed sales, etc.) | | | |
|---|---|---|---|
| **Party 1:** | | **Party 2:** | |
| Type of Interest: | | Type of Interest: | |
| Name | | Name | |
| Address | | Address | |
| City | | City | |
| State | | State | |

| Notes/Additional Information |
|---|
| Lot 1, Block 1, NRB Properties |

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5 Empire Drive
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# Title Searches - Waite Park Wells

| Basic Property Info | |
|---|---|
| Parcel # | 30 |
| Property PIN | 8249104 0001 |

| Current Owner on Record | |
|---|---|
| Name | City of St. Cloud |
| Address | |
| City | |
| State | |
| Duration of ownership | 1/5/07 - present |

| Co-owner (if applicable) | |
|---|---|
| Name | |
| Address | |
| City | |
| State | |
| Dates of ownership | |

| 1st Previous Owner | |
|---|---|
| Name | NRB Properties, LLC |
| Address | |
| City | |
| State | |
| Dates of ownership | 10/04/04 - 1/5/07 |

| 2nd Previous Owner | |
|---|---|
| Name | NRB Properties a Minnesota Partnership |
| Address | |
| City | |
| State | |
| Dates of ownership | 7/1/02 - 10/04/04 |

| 3rd Previous Owner | |
|---|---|
| Name | Cornerstone Construction of St. Cloud, Inc. |
| Address | |
| City | |
| State | |
| Dates of ownership | 7/1/02 - 7/1/02 |

| 4th Previous Owner | |
|---|---|
| Name | Dan G. Feneis |
| Address | |
| City | |
| State | |
| Dates of ownership | 8/3/00 - 7/1/02 |

| Recorded Interests | |
|---|---|
| Doc. No. | Description |
| 411956 | Agreement, dated 7/23/70, filed 11/10/70, no discussion of environmental issues |
| | |
| 450372 | Utility Easement, dated 11/7/74, filed, 11/27/74, no discussion of environmental issues |
| | |
| 669548 | Access Agreement, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 669550 | Affidavit, dated 12/28/89, filed 1/3/90, contains discussion of environmental issues |
| | |
| 802960 | Subdivisions Agreement, dated 7/31/95, filed 9/12/95, no discussion of environmental issues |

**Subordinate Interests (leases, contract for deed sales, etc.)**

| Party 1: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Party 2: | |
|---|---|
| Type of Interest: | |
| Name | |
| Address | |
| City | |
| State | |

| Notes/Additional Information |
|---|
| Lot 2, Block 1, NRB Properties |

# Attachment 4

# Summary of IC Documents Identified During the January 2010 Title Search

# Summary of IC Documents Identified in the January 2010 Title Search

# EM OU1

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| 669547 | 12/14/89 | 1/3/90 | Warranty Deed, from ABB to ME International, conveyed the EM site property (est. 45 acres), indicates the sale is subject to the exceptions contained in Exhibit B, which includes the Affidavit of Johann Wagner (Doc. No. 669550) |
| 669548 | 12/28/89 | 1/3/90 | Access Agreement, between M E International and ABB Power Distribution, Inc., gives MPCA and ABB access; refers to Request for Response Action (RFRA) issued in 1986; requires owner not interfere with actions or equipment; successive interests in the property subject to Access Agreement until agreement is terminated. |
| 669550 | 12/28/89 | 1/3/90 | Affidavit, Johann Wagener, describes actual and potential contamination on EM property pursuant to MERLA. |
| 803666 | 9/15/95 | 9/20/95 | Access Agreement, between Grede-St. Cloud, Inc., Grede Foundries, Inc. ME International, Inc., and GS Technologies Corporation. Discusses previous uses and MPCA actions, references Access Agreement by ABB (Doc No. 669558). Provides mutual access, does not provide access to MPCA except by reference to previous access agreement. |
| 813568 | 2/16/98 | 2/20/96 | Warranty Deed from ME International, Inc. to Courrier Investments, LLC. Contains Exhibit A which references the Access Agreement dated 12/28/89 (Doc. No. 669548) and the Affidavit by Johann Wagner dated 12/14/89 (Doc. No. 669550). |
| 878751 | 6/4/98 | 7/7/98 | Mortgage between Goodin Company and North Tier Landco, LLC. Contains Exhibit B which references the Access Agreement dated 12/28/89 (Doc. No. 669548) and the Affidavit by Johann Wagner dated 12/14/89 (Doc. No. 669550). |
| 1016329 | 7/3/02 | 7/11/02 | Mortgage, between Goodin Company and North Tier Landco, LLC. Contains Exhibit B which references the Access Agreement dated 12/28/89 (Doc. No. 669548) and the Affidavit by Johann Wagner dated 12/14/89 (Doc. No. 669550). |

# BN OU2

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| 602757 | 7/21/86 | 8/22/86 | Affidavit, Thomas J Patnode, describes actual and potential contamination on the BN property pursuant to MERLA; refers to Request for Response Action (RFRA) issued in 1985. |
| 602758 | 8/20/86 | 8/22/86 | Quit Claim Deed, From BN to City of Waite Park, conveys 126.4 acres; provides access to the property for BN for environmental purposes; indemnifies City of any and all cleanup costs for contaminants on the property. |
| 685222 | 4/10/90 | 10/19/90 | Quit Claim Deed, between City of Waite Park and Theisen Design and Manufacturing, Inc. Discusses indemnification for contaminants, pollutants, hazardous wastes or hazardous substances. |
| 848214 | 3/20/97 | 6/26/97 | Quit Claim Deed, From City of Waite Park to BN, conveys about 1.5 acres subject to rights reserved to BN in Quit Claim Deed (Doc. No. 602758), and subject to Affidavit of Thomas J Patnode (Doc. No. 602757); the north part of the containment cell is located on this property since it is referred to in the Affidavit of Richard Miller having the same legal description. |
| 848215 | 3/20/97 | 6/26/97 | Affidavit, Richard Miller, Mayor of Waite Park, describes soil contaminants for the containment cell on the property. |
| 848216 | 6/11/97 | 6/26/97 | Easement, from BN to Waite Park, for a roadway and utilities, subject to all existing interests; apparently for the road on the east and north of the containment cell. |
| 845329 | 5/6/97 | 5/16/97 | Easement and Declaration of Restrictions and Covenants, discloses previous contamination pursuant to MERLA on Exhibit 1 West River Business Park Block 1 Lots 1 – 7 and Block 2 Lots 1 – 3; cleanup status and cleanup levels in Exhibit 2; use restrictions limited to commercial and industrial; no extraction of ground water or excavation below ground water table; soils use restrictions for soils from Area 1 (all portions not contained in Areas 2 and 3), Area 2 (exhibits 3 and 4, approx. Block 1, Lots 1 and 2, and Block 2 Lot 1), and Area 3 (Exhibits 4 and 4a, area near Test Trench 3, approx Block 1, Lot 1); covenant not to violate restrictions; MPCA right of entry and enforcement; terms for modification; runs with property; excepted by MPCA 5/12/97 |

| Document No. | Dated | Filed | Description |
|---|---|---|---|
| 996097 | 12/21/01 | 1/18/02 | Modification of Easement and Declaration of Restrictions and Covenants, declares Lot 7 Block 1 West River Business Park Addition is subject to an Easement and Declaration of Restrictions and Covenants granted by Waite Park (Doc No 845329); with Exhibit 1 (an Affidavit by Ron Morton dated 12/14/01, proposing use by a charter school, VIC cleanup to 4 feet, related to Affidavit dated 5/1/01); modifying the use restriction to allow use by a charter school; Affidavit by Ronald Morton dated 12/14/01 is attached; accepted by MPCA on 1/7/02. |
| 1163067 | 8/2/05 | 8/2/-5 | Common Interest Community Number 72, A Condominium West River Business Park Condominiums Declaration, establishes a common interest community. References documents the Easement and Declaration of Restrictions and Covenants, dated May 6, 1997, filed 6/16/97 as Doc. No. 845329, and Modification of Easement and Declaration of Restrictions and Covenants, dated 12/21/02, filed 1/18/02, as Doc. No. 996097. Restricts use of property to commercial and industrial uses and identifies uses which are not allowed. |
| 1184784 | 8/2/05 | 2/10/06 | Corrective Common Interest Community Number 72 a Condominium West River Business Park Condominiums Declaration, contains same references and restrictions of use as Doc. No. 1163067 |

# Attachment 5

# Title Search Documents
# (Provided on Enclosed CD)

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal this 29 day of May, 1959.

Hulda M. Carlson

THIS INSTRUMENT was, on the date above specified, signed, published and declared by the said testator to be her last Will and Testament in our presence, who at her request, have subscribed our names thereto as witnesses in her presence and in the presence of each other.

Mrs. Leona K. Dlugosch residing at 806-Kilian Blvd. St. Cloud, Minn.

Mrs. Bernard Derr residing at 721-8th St. S.E.

State of Minnesota )
) ss. IN PROBATE COURT
County of Stearns ) CERTIFICATE OF PROBATE

IN THE MATTER OF THE ESTATE OF Hulda M. Carlson DECEDENT

BE IT REMEMBERED, That on the day of the date hereof at a Special Term of said Probate Court, pursuant to the notice duly given, the last will and testament of Hulda M. Carlson Decedent, late of said County of Stearns bearing date the 29th day of May, 1959, and being the annexed written instrument, was duly proved before the Probate Court, in and for the County of Stearns aforesaid; and was duly allowed and admitted to probate by said Court according to law; as and for the last Will and Testament of said Hulda M. Carlson deceased, which said last Will and Testament is recorded and the examination taken thereon filed in this office.

IN TESTIMONY WHEREOF, The Judge of the Probate Court of said County has hereunto set his hand and affixed the seal of said Court at St. Cloud, Minnesota in said County, this 8th day of July, 1960.

(COURT SEAL)

Earl J. Meinz,
Judge of Probate

State of Minnesota )
) ss. IN PROBATE COURT
County of Stearns )

I, Roselyn Kuxhouse, Clerk of the Probate Court of said County, do hereby certify that I have compared the annexed copy of the Last Will and Testament of Hulda M. Carlson, late of the County of Stearns and State of Minnesota, deceased, and the certificate of Probate thereof with the original records preserved in said Probate Registry, and that the same is a true copy thereof, and of the whole of said original records.

IN TESTIMONY WHEREOF, I have hereunto subcribed my name and affixed the seal of the Probate Court of said County, at St. Cloud, Minn., in said County, this 20th day of July A.D. 1960.

(PROBATE COURT SEAL)
(STEARNS COUNTY, MINNESOTA)

Roselyn Kuxhouse
Clerk of Probate of Stearns County, Minnesota.

Filed for record March 6, 1961 at 1:48 P.M.

ALFRED J. LAHR, Register of Deeds

By _____ Deputy.

68 MISC 623

343973

PROTECTIVE COVENANTS

Conditions, Covenants, Restrictions and Easements Affecting Property of St. Cloud Opportunities, Inc.

THIS DECLARATION, made this 12th day of May, 1961, by the Owners, hereinafter called the Declarant.

WITNESSETH

WHEREAS, Declarant is the owner of the real property described in Clause 1 of this Declaration, and is desireous of subjecting the real property described in said Clause 1 to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall apply to and bind the successors in interest, and any owners thereof;

NOW, THEREFORE, St. Cloud Opportunities, Inc. hereby declare that the property described in and referred to in Clause 1 hereof is, and shall be held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and charges hereinafter set forth.

DEFINITION OF TERMS

BUILDING SITE shall mean any lot, or portion thereof, or any two or more contiguous lots, or a parcel of land of record and in a single ownership and upon which a building may be erected in conformance with the requirements of these covenants.

OWNERS shall mean St. Cloud Opportunities, Inc.

CLAUSE I

PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be, held and shall be conveyed, transferred and sold subject to the conditions, restrictions, covenants, reservations, easements, liens and charges with the respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the County of Stearns, State of Minnesota, and is more particularly described as follows, to-wit:

A tract of land lying in and being a part of the Northeast Quarter (NE 1/4) and the Southeast Quarter (SE 1/4) of Section Eight (8), Township One Hundred twenty-four (124) North, Range Twenty-eight (28) West, together with a fraction of the Southwest Quarter of the Northwest Quarter (SW 1/4 of NW 1/4) and the West Half

of the Southwest Quarter (W 1/2 of SW 1/4) in Section Nine (9), Township One Hundred twenty-four (124) North, Range Twenty-eight (28) West of the 5th P.M., Stearns County, Minnesota, as follows to wit:

Beginning at a point of intersection of the West line of said Southeast Quarter (SE 1/4) of said Section 8, Township 124, North, Range 28 West with the Northerly right-of-way line of the Great Northern Ry. Co. said point being Thirteen Hundred thirty-six and three-tenths (1336.30) feet South of the Northwest corner of said Southeast Quarter (SE 1/4) of said Section Eight (8), Township One Hundred Twenty-four (124) North, Range twenty-eight (28) West; Thence running North along the said West line of said SE 1/4 for a distance of Eleven Hundred Eighty-three and three-tenths (1183.30) feet; Thence running North Fifteen degrees and fifty-seven minutes East (N.15°57'E.) along the center of a County Road for One Hundred (100.00) feet; Thence continuing along said center line of said Road and North Thirty-two degrees and Fifty-five minutes East (N.32°55'E.) for a distance of One Hundred (100.00) feet; Thence continuing along said center line of said road and North Thirty-six degrees and Thirty-five minutes East (N.36°35'E.) for Four Hundred Fifty-five (455.00) feet; Thence continuing along said center line of said road and North Forty-five degrees and Fifteen minutes East (N.45°15'E.) for Nine Hundred Thirty-seven and five-tenths (937.50) feet to an intersection with the center line of State Aid Road No. 4 as now constructed and traveled; Thence running Southeasterly along the center line of said State Aid Road No. 4 for Sixteen Hundred Seventy-three and six-tenths (1673.60) feet to an intersection with the Easterly line of said Section Eight (8) Township One Hundred Twenty-four (124) North, Range Twenty-eight (28) West; Thence continuing along said center line of said State Aid Road No. 4 in a Southeasterly direction and over and across the SW 1/4 NW 1/4 of said Section Nine (9), Township One Hundred Twenty-four (124) North, Range Twenty-eight (28) West for a distance of Thirteen Hundred Twenty-four (1324.00) feet; Thence at an angle of 79°38' with said center line of said State Aid Road No. 4 and Southerly for a distance of Seventeen Hundred Fifty-nine (1759.00) feet to an intersection with the Northerly right-of-way line of the Great Northern Railway Company; Thence Southwesterly and Northwesterly along the said Northerly right-of-way line of said Railway Company for a distance of Thirty-nine hundred Twenty-six and eight-tenths (3926.80) feet to the point of beginning and there terminating, said tract containing 182.31 Acres (more or less), and containing that tract platted as "St. Cloud Industrial Park."

No property other than that described above shall be deemed subject to this Declaration, unless and until specifically made subject thereto.

CLAUSE II

GENERAL PURPOSES OF CONDITIONS

The real property described in Clause I hereof is subjected to the covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of building sites thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property, to preserve so far as practicable, the natural beauty of such property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to insure the highest and best development of said property; to encourage and secure the erection of attractive buildings thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets and adequate free spaces between buildings; and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of building sites therein.

These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them until March 1, 1970, at which time said Covenants shall be automatically extended from year to year, provided, however, that after March 1, 1970, said Covenants can be amended at any time by a vote of a majority of the then owners of lots or tracts, a majority by both number and area being necessary. Said amendment shall become effective when an appropriate document signifying and describing such change is filed with the Stearns County Register of Deeds, provided also that these Covenants can be added to or made more restrictive at any time prior to March 1, 1970, by following the above procedure.

Invalidation of any one of these Covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

A. SETBACKS

1. There shall be a minimum 50 foot setback, building line to property line relating to streets. There shall be a minimum 15 foot setback, building line to property line, where the property line divides two industrial tracts.

B. LANDSCAPING

Except for entrance drives, the area between the aforesaid 50 feet setback lines and the street property lines shall be landscaped and properly maintained with lawns, trees and shrubs and shall be limited to this use.

C. PARKING AND LOADING

1. There shall be no parking, loading or truck service between the aforesaid 50 foot setback lines and the street property lines. Any such parking, loading or service areas which are visible from any street shall be screened by an acceptable fence or plantings.

2. Off street parking shall be provided for the total employee plus visitor need. Parking needs shall not include any space on a public street.

3. All off street parking areas shall be surfaced or treated with a dust free material.

D. NUISANCES

No noxious or offensive trade or activity shall be carried on upon any building site nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. This includes, but is not limited to, excessive smoke, odor or noise.

E. DWELLINGS

No trailer, basement, tent, shack, garage, barn or other outbuilding shall at any time be used for human habitation, temporarily or permanently; nor shall any structure of temporary character be maintained upon a building site, except as incidental to building construction.

F. EASEMENTS

An easement is hereby reserved over the rear and side five feet of each building site, lot or tract for utility installation and maintenance; provided however, that no easement shall be reserved over any portion of such rear or side which abuts a rear or side of a site, lot or tract under the same ownership or control. For the same purpose, an easement of ten feet shall be reserved adjacent to all railroad easements.

G. ANIMALS

No animals or poultry of any kind shall be kept or maintained on any part of the property.

H. REFUSE

No garbage or decomposable animal or vegetable wastes shall be placed or stored upon any lot or tract except in tightly-covered metal containers, and said containers maintained in an orderly and sanitary condition. All other refuse shall be placed in containers or enclosures in a manner not constituting a nuisance by reason of wind-litter, disorderly appearance, or abnormal fire hazard.

I. CONSTRUCTION

Any building or additions thereto erected on the property must conform to the Building Code of the City of St. Cloud, Minnesota, and the Statutes of the State of Minnesota relating to the Industrial Safety Standards and Preservation of Health. No restrictions shall be placed on the use of facing materials, permitted by the St. Cloud Building Code, providing they are used in a manner to present an aesthetic appearance on all sides facing streets. Sketch drawings showing the location, design and use of facing materials on all structures or additions thereto must be submitted for written approval of the Board of Directors of St. Cloud Opportunities, Inc., before issuance of building permit or construction.

J. SIGNS

1. No signs shall be erected that extend outward more that 6 feet from the faces of any building.

2. Signs erected on the property shall be limited to identifying the name of the person, persons, companies or corporations together with the type of business, or its products. No sign or sign space shall at any time be used to advertise products or services other than those produced on the property.

3. The area on one side of any permissible sign shall not exceed 300 square feet.

4. Real estate signs, including signs advertising the sale or rental of premises, are permitted providing the area on one side of any such signs shall not exceed six (6) square feet; and signs indicating the location and direction of premises in the process of development, provided the area on one side of any such sign shall not exceed twenty-four (24) square feet.

5. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

6. No sign other than official traffic signs shall be erected within the lines of any street unless specifically authorized by other ordinances or regulations.

7. No signs exceeding six (6) square feet shall be placed in the area designated for building setback.

K. MATERIAL STORAGE

Storage of materials in open areas shall be neat and orderly in appearance so as not to detract from the general appearance of the property.

L. MAINTENANCE OF VACANT LAND

Owners of vacant land must keep said land clean, keep weeds cut and maintain the land in a manner that will not depreciate other property within overall area.

M. LIMITATION ON SALES CONTRACT

If after the expiration of one year from the date of execution of a sale contract agreement by the Owner on any tract within the property described in Clause 1 of these Covenants, any purchaser shall not have begun in good faith the construction of an acceptable building upon said tract, the Owner retains the option to refund the purchase price and enter into possession of said land. At any time the Owner, its successors or assigns, may extend, in writing, the time in which such building may be begun.

N. STORAGE OF FUEL

No tank for the storage of fuel for use in heating individual buildings shall be placed or maintained above the surface of the ground, unless the placing of such a tank is approved, in writing, by the Board of Directors of the Owners.

O. LIQUOR

No liquor or beer shall be sold or dispensed at retail on the property.

P. ARCHITECTURAL CONTROL

No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of design and materials, harmony of external design with existing structures and as to location with respect to topography and finish grade elevation.

1. Committee Membership shall consist of three people, appointed by the Owner.

2. Procedure - The Committee's approval or disapproval, as required in these covenants, shall be in writing. In event the committee, or its designated representative fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Approval or disapproval by the committee or failure to approve or disapprove, shall not impair, restrict or limit the force, effect and operation of all of the other protective covenants herein contained, which shall apply at all times.

Q. ACCESS LIMITED

No direct access shall be permitted from any lot or tract onto Eighth Street North.

R. SUBDIVISION

No lot, as platted by the Owners, shall be subdivided and a part thereof sold or leased unless the proposed transfer has received the prior approval, in writing, of the Board of Directors of the Owners.

ST. CLOUD OPPORTUNITIES, INC. By:

In Presence of:
Yvonne Dahlman
Charles B. Sersen

L. K. McLeland
L. K. McLeland, President

(Corporate Seal)
(St. Cloud Opportunites, Inc.)
(Minnesota)

Paul G. Hoffman
Paul G. Hoffman, Secretary

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 12th day of May, 1961, before me, a Notary Public within and for said County, personally appeared L. K. McLeland and Paul G. Hoffman to me personally known, who, being each by me duly sworn they did say that they are respectively the President and the Secretary of St. Cloud Opportunities, Inc., the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said St. Cloud Opportunities, Inc., and that said instrument was signed and sealed in behalf of said St. Cloud Opportunities, Inc. by authority of its Board of Directors and said L. K. McLeland and Paul G. Hoffman acknowledged said instrument to be the free act and deed of said St. Cloud Opportunities, Inc.

Charles B. Sersen
Notary Public, Stearns County, Minn.
My Commission expires Dec. 29, 1961

(Notarial Seal)
(Stearns County, Minn.)

Filed for record May 15, 1961 @ 4:32 P. M.

Alfred J. Lahr, Register of Deeds

By _____ Deputy

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344484

STATE OF MINNESOTA
ss
COUNTY OF STEARNS

John Stanger, being first duly sworn on oath deposes and says:

That he is theson of Catherina Stanger who is also known as Catherina Staenger and as Catnarina Stanger and whose maiden name was Katherine Coltinger;

Affiant further states that the said Catherina Stanger was married to Christian Stanger and after the death of said Christian Stanger the said Catherina Stanger was married to Benjamin O. Bardson and was thereafter known as Catherine Bardson and as Katherine Bardson.

That Catnarina Stanger, Katherine Bardson, Catherina Staenger, Catherina Stanger, Katherine Caltinger, Catharina Stanger and Catherine Bardson are one and the same nerson.

John C. Stanger

Subscribed and sworn to before me this 14th day of June, 1961.

Louis J. Reed
Louis J. Reed, Notary Public
Benton County, Minnesota
My Commission Expires 1-27-66

(Louis J. Reed)
(Notary Public - Seal)
(Benton County, Minn.)

Filed for record June 15, 1961 @ 2:46 P. M.

Alfred J. Lahr, Register of Deeds

By _____ Deputy

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344593 AFFIDAVIT

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

Roger R. Schmitt, being first duly sworn, on oath, deposes and says that he is a resident of the City of St. Cloud, County of Stearns, State of Minnesota; that he is acquainted with and has known one, Gerald P. Weyrens, also known as Jerry P. Weyrens, for more than ten years; that the Jerry P. Weyrens named as the grantor in that certain dedication executed by him on May 1, 1961, on the original plat and copy thereof en-

ASSIGNMENTS AND AGREEMENTS

52 A+A 245
7-23-70
11-10-70

245

AGREEMENT

411956

THIS AGREEMENT, made this 23rd day of July, 1970, by and between Electric Machinery Mfg. Company, a Minnesota corporation, hereinafter called EMMCo., Saint Cloud Opportunities, Inc., a Minnesota corporation, sometimes called St. Cloud Opportunities, Inc. and St. Cloud Opportunities, Incorporated, and hereinafter called Opportunities, Dairy Craft, Inc., a Minnesota corporation, hereinafter called Dairy Craft, and City of St. Cloud, a municipal corporation hereinafter called City, WITNESSETH:

WHEREAS, EMMCo. is the owner of the following described land:

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said SE 1/4 of Sec. 8 as measured at right angles thereto; thence North and parallel with said West line of said SE 1/4 to its intersection with the North line of said SE 1/4 of Sec. 8 and there terminating.

hereinafter called Tract A, and Opportunities is the owner of the following described land, subject to a lease to Dairy Craft:

That part of the Southeast Quarter (SE 1/4) of Section Eight (8), Township One Hundred twenty-four (124) North, Range Twenty-eight (28) West described as follows: Commencing at the intersection of the West line of said Southeast Quarter (SE 1/4) with the Northern right-of-way line of the Great Northern Railway Company; running thence North along the West line of said Southeast Quarter (SE 1/4) a distance of 718.9 feet; thence East at right angles a distance of 483.0 feet; thence South at right angles a distance of 761.79 feet to the Northerly right-of-way line of the Great Northern Railway Company; thence Westerly along said Northerly right-of-way line a distance of 484.9 feet to the point of beginning and there terminating; subject to easements and restrictions of record.

hereinafter called Tract B, and Opportunities is the owner of the following described land, subject to a contract for deed to Dairy Craft:

Part of the Southeast Quarter (SE 1/4) of Section Eight (8), Township One Hundred Twenty-four (124) North, Range Twenty-eight (28) West, Stearns County, Minnesota, described as follows, to-wit: Commencing at the intersection of the West line of said Southeast Quarter (SE 1/4) and the Northerly right-of-way line of the Great Northern Railway Company, thence North along the West line of said Southeast Quarter (SE 1/4) a distance of 718.9 feet; thence East at right angles a distance of 483.00 feet to the point of beginning; thence continue East on last described line extended a distance of 240.00 feet; thence South

at right angles a distance of 783.10 feet to the Northerly right-of-way line of said Railroad; thence Northwesterly along said Railroad right-of-way line a distance of 240.94 feet to a point 483.00 feet East of said West line of Southeast Quarter (SE 1/4), as measured at right angles thereto; thence North and parallel with said West line of said Southeast Quarter (SE 1/4) a distance of 761.79 feet to the point of beginning, containing 4.25 acres, more or less.

hereinafter called Tract C; and

WHEREAS, there is now located on Tracts A, B and C a certain twelve-inch water main serving or available for serving each of said three tracts, and connected at each end with the water main system of the City, which water main, insofar as it is located on Tract A, is subject to removal at this time by Opportunities at the request of EMMCo., but which all parties hereto desire to have continued in place, subject to future cutoff and/or removal as hereinafter provided;

NOW, THEREFORE, it is agreed by the parties hereto as follows:

1. EMMCo. shall pay to Opportunities the sum of Five Thousand One Hundred and Sixty-six Dollars and Thirty-five cents for that part of said water main located on Tract A, and that part of said water main shall be the property of EMMCo., and Opportunities shall be relieved of its obligation to remove said water main from said Tract A.

2. The entire water main, as it now exists over Tracts A, B and C, may continue in use for the benefit of said tracts, subject to the right of EMMCo. to terminate such common use and to cut off said water main at its intersection with the common boundary between Tracts A and C (or to close the valve on Tract A controlling the flow of water through said water main) at any time, and to thereafter move or remove that part of said water main located on Tract A, as it may see fit.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their hereunto duly authorized officers the day and year first above written.

Witnesses as to EMMCo.

ELECTRIC MACHINERY MFG. COMPANY

Annette Larson

By J J Wall

Its President

Kay M Quance

and W E Sampson

Its Secretary

ASSIGNMENTS AND AGREEMENTS

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Witnesses as to Opportunities

C R Eckberg

Kay A Jerve

SAINT CLOUD OPPORTUNITIES, INC.

By George J. McDowall

Its _____ President

and Salyards Hofmeister

Its Secretary

Witnesses as to Dairy Craft

Howard Barron

Sharon Bock

DAIRY CRAFT, INC.

By [illegible]

Its _____ President

and C R Hughes

Its Secretary

Witnesses as to City

Jeanette Haas

Carol J. Mathews

CITY OF ST. CLOUD

By Edward J Henry

Its Mayor

and John J Mertz

Its City Clerk

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 17th day of August, 1970, before me a notary public where in and for said county personally appeared George J. McDowall and Salyards Hofmeister to me personally known, who, being each by me duly sworn did say that they are respectively the _____ president and the secretary of Saint Cloud Opportunities, Inc., one of the corporations named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said George J. McDowall and Salyards Hofmeister acknowledge said instrument to be the free act and deed of said corporation.

C R Eckberg

C. R. ECKBERG
Notary Public, Sherburne County, Minn.
My Commission Expires Dec. 18, 1971

ASSIGNMENTS AND AGREEMENTS

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STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

On this 3rd day of July, 1970, before me a notary public where in and for said county personally appeared J. J. Wall and W. E. Hampson to me personally known, who, being each by me duly sworn did say that they are respectively the _____ president and the secretary of Electric Machinery Mfg. Company, one of the corporations named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said J. J. Wall and W. E. Hampson acknowledge said instrument to be the free act and deed of said corporation.

Hilmer A. Anderson

HILMER A. ANDERSON,
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. 31, 1972.

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 20th day of August, 1970, before me a notary public where in and for said county personally appeared C. F. Nielsen and C. R. Hughes to me personally known, who, being each by me duly sworn did say that they are respectively the _____ president and the secretary of Dairy Craft, Inc., one of the corporations named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and said C. F. Nielsen and C. R. Hughes acknowledge said instrument to be the free act and deed of said corporation.

Kenneth F. Merz

KENNETH F. MERZ
Notary Public, Benton County, Minn.
My Commission Expires May 26, 1975

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 4th day of September 1970, before me a notary public where in and for said county personally appeared Edward L. Henry and John J. Streitz to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Clerk of the City of St. Cloud, one of the corporations named in the foregoing instrument and that the seal affixed to said instrument is the corporate seal of said City and that said instrument was signed and sealed on behalf of said corporation by authority of its governing body and said Edward L. Henry and John J. Streitz acknowledge said instrument to be the free act and deed of said City of St. Cloud.

Cathleen A. Waldon

Cathleen A. Waldon
Notary Public, Stearns County, Minn.
My Commission Expires Feb. 4, 1975

STATE OF MINNESOTA
COUNTY OF STEARNS
I HEREBY CERTIFY THIS INSTRUMENT
NOV 10 9 32 AM '70
IN BOOK 32 OF A-A
ON PAGE 215
RECORDS OF DEEDS
BY DEPUTY
Patricia Chapman

ASSIGNMENTS AND AGREEMENTS 61



450372 UTILITY EASEMENT

THIS INDENTURE, made this 7 day of Nov., 1974, by and between Electric Machinery Manufacturing Company a Corporation under the laws of the State of Minnesota, party of the first part, and the City of St. Cloud, Minnesota, a municipal corporation, party of the second part.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of One Dollar ($1.00) and other valuable considerations in hand paid by the party of the second part, the receipt and sufficiency of which is hereby acknowledged, and the covenants contained herein to be kept and performed by the party of the second part, the party of the first part does hereby grant and convey unto the party of the second part, its successors and assigns, a temporary construction easement upon, under, and across the following tract of land, lying in the City of St. Cloud, County of Stearns, State of Minnesota, described as follows, to-wit:

The southerly 20 feet of the northerly 30 feet and easterly 20 feet of the westerly 30 feet of the northerly 637.09 feet of the following described tract:

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said SE 1/4 of Sec. 8 as measured at right angles thereto; thence North and parallel with said West line of said SE 1/4 to its intersection with the North line of said SE 1/4 of Sec. 8 and there terminating.

for the purpose of constructing a twelve (12) inch water main and appurtenances under and across said tract, said temporary easement to expire July 1, 1975.

In addition to the above described temporary easement, the party of the first part also grants, bargains, conveys and dedicates unto the party of the second part, its successors and assigns, free right, liberty and authority to maintain such twelve (12) inch water main and appurtenances and does hereby grant a perpetual subterranean easement for a twelve (12) inch water main and appurtenances under, and across the following tract of land lying in the City of St. Cloud, County of Stearns State of Minnesota, described as follows, to-wit:

61 A2A 487
11-7-74
11-27-74

The northerly 10 feet and the westerly 10 feet of the northerly 637.09 feet of the following described tract.

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition t. St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said SE 1/4 of Sec. 8 as measured at right angles thereto; thence North and parallel with said West line of said SE 1/4 to its intersection with the North line of said SE 1/4 of Sec. 8 and there terminating.

The party of the first part hereby expressly reserves the right to use, construct or have constructed, maintain or have maintained any vehicle roads, parking lots, walkways, lawns and/or fences upon and across the surface of the above described tract of land. This reservation shall be for the benefit of the party of the first part, its successors and assigns, and any subsequent purchasers of the property.

The party of the second part hereby covenants with the party of the first part as follows; namely, the party of the second part,

(a) Will construct said twelve (12) inch water main and appurtenances in a good and workmanlike manner, and so as to cause no unnecessary damange or disturbance to said premises.

(b) Will be responsible for and will bear the full cost and expense of restoring the premises, or any part thereof, including any vehicle roads, parking lots, walkways, lawns or fences constructed thereon, as may have been opened, disturbed, moved, removed or damaged in the course of or in connection with said constructing, repair or maintenance to the same or as good a state and condition as said premises were in immediately prior to the performance by or for the party of the second part of said constructing, repair or maintenance.

(c) Will keep the party of the first part indemnified against all actions, claims, and demands that may be lawfully brought or made against the party of the first part by reason of anything done by or for the party of the second part in the exercise or purported exercise of the rights and privileges hereby granted.

ASSIGNMENTS AND AGREEMENTS 61

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first written above.

In presence of:

C. O. Woodard

Dora Fortier

Bernice Fremed

Dorothy Haus

By: Electric Machinery Manufacturing Co.

J. J. Wall
President

(party) (parties) of the first part

By: The City of St. Cloud, Minnesota

Alcuin L. Loehr
Mayor

John J. Streitz
City Clerk (party of the second part)

On this 7th day of November, 1974, before me, a Notary Public within and for the County of Anoka, State of Minnesota, personally appeared _____, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he (they) executed the same as his (their) free act and deed.

JANICE A. RIESE
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
My Commission Expires Apr. 14, 1981

Janice A. Riese

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

On this 19th day of November, 1974, before me, a Notary Public within and for said county, personally appeared Alcuin Loehr and John Streitz, to me personally known, who being each by me duly sworn did say that they are respectively the Mayor and the City Clerk of the City of St. Cloud, a municipal corporation named in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said municipal corporation by authority of the City Council of the City of St. Cloud and the said Alcuin Loehr and John Streitz acknowledged said instrument to be the free act and deed of said municipal corporation.

Richard J. Ahles

RICHARD J. AHLES
NOTARY PUBLIC — MINNESOTA
BENTON COUNTY
My Commission Expires Feb. 5, 1980

ASSIGNMENTS AND AGREEMENTS 61

DEED BOOK 454

Warranty Deed
Corporation to Corporation.

Form No. 9-M. Minnesota Uniform Conveyancing Blanks (Revised 1974)

319

This Indenture, Made this 30th day of December, 1977,
between ELECTRIC MACHINERY MFG. COMPANY,
488640

a corporation under the laws of the State of Minnesota, party of the first part, and

BROWN BOVERI TURBOMACHINERY, INC.,

a corporation under the laws of the State of Minnesota, party of the second part,

Witnesseth, That the said party of the first part, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration ---------- DOLLARS, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Stearns and State of Minnesota, described as follows, to-wit:

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said Southeast Quarter (SE 1/4) of Section Eight (8) as measured at right angles thereto; thence North and parallel with said West line of said Southeast Quarter (SE 1/4) to its intersection with the North line of said Southeast Quarter (SE 1/4) of Section Eight (8) and there terminating.

STATE DEED TAX: $14,080.00

To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever. And the said ELECTRIC MACHINERY MFG. COMPANY,

party of the first part, for itself and its successors, does covenant with the said party of the second part, its successors and assigns, that it is well seized in fee of the lands and premises aforesaid, and has good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances except:

1. Real estate taxes not yet due and payable.
2. Utility easement given to the City of St. Cloud by document dated November 7, 1974, and filed November 27, 1974, as Document No. 450372, in the office of the County Recorder, Stearns County, Minnesota.
3. The terms and conditions of the Protective Covenants dated May 12, 1961, and filed May 15, 1961, in Book 68 of Miscellaneous, page 623, in the office of the County Recorder, Stearns County, Minnesota.
4. The terms and conditions of the Agreement dated July 23, 1970, and filed November 10, 1970, in Book 52 of ASA, page 245, in the office of the County Recorder, Stearns County, Minnesota; and the party of the first part hereby conveys and transfers all of its rights under said Agreement to the party of the second part.

And the above-bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinbefore mentioned, the said party of the first part will Warrant and Defend.

In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its President and its Asst. Secretary and its corporate seal to be hereunto affixed the day and year first above written.

ELECTRIC MACHINERY MFG. COMPANY

By J. H. W. BROWN
Its President

J. M. SPENCE
Its Assistant Secretary

12-30-77
12-30-77
454 Deed 319

0602757

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

AFFIDAVIT OF

THOMAS J. PATNODE

THOMAS J. PATNODE, being first duly sworn under oath, deposes and states:

1. I am employed by Burlington Northern Railroad Company (BN) in the capacity of Environmental Engineer for the Twin Cities Region, which encompasses BN facilities in Minnesota and portions of North Dakota, South Dakota, Nebraska, Iowa and Wisconsin. My business address is 176 East Fifth Street, St. Paul, Minnesota 55101.

2. As part of my duties, I am responsible for various environmental matters involving railroad operations on the Twin Cities Region. This includes supervising hazardous material or waste investigations that may arise from past or present disposal practices on the Burlington Northern Railroad. In this regard, I represent BN as the Environmental Engineer. This affidavit is being submitted to the Stearns County Recorder pursuant to the disclosure requirements of MSA §115B.16, and I have personal knowledge of the statements herein. The legal description for the property which this disclosure covers is as follows:

> That part of the South Half of the Southwest Quarter (S½ SW¼) and the South Half of the Southeast Quarter (S½ SE¼) of Section 8, Township 124 North, Range 28 West, together with that part of the South Half of the Southwest Quarter (S½ SW¼) of Section 9, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:
>
> Commencing at the South quarter corner of said Section 8; thence North 00 degrees 09 minutes 53 seconds West, assumed bearing, along the North-South quarter line and along the

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centerline of 10th Avenue, a distance of 1182.41 feet to a point on the Southerly right-of-way line of Burlington Northern Railroad, said point being the Point of Beginning of the following described parcel; thence South 85 degrees 06 minutes 57 seconds East, along said Southerly right-of-way line, 1595.99 feet; thence Easterly a distance of 760.22 feet along a tangential curve concave to the North having a radius of 5729.58 feet and a central angle of 07 degrees 36 minutes 08 seconds; thence North 87 degrees 16 minutes 55 seconds East, along said Southerly right-of-way line, and along tangent 2943.41 feet to the East line of said Southwest Quarter of Section 9; thence South 00 degrees 25 minutes 17 seconds East, along said East line, 186.37 feet; thence South 57 degrees 43 minutes 00 seconds West 399.31 feet; thence South 88 degrees 39 minutes 10 seconds West 621.65 feet; thence North 78 degrees 37 minutes 20 seconds West 755.25 feet; thence North 89 degrees 57 minutes 55 seconds West 1614.25 feet; thence South 00 degrees 02 minutes 05 seconds West 467.56 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East 183.34 feet; thence South 00 degrees 02 minutes 05 seconds West 177.16 feet; thence South 89 degrees 59 minutes 25 seconds East 1514.10 feet; thence South 08 degrees 12 minutes 25 seconds East 174.12 feet to a point on the South line of said Section 9; thence North 89 degrees 33 minutes 37 seconds West, along said South line, 938.16 feet to the Southwest corner of said Section 9; thence North 90 degrees 00 minutes 00 seconds West, along the South line of said Section 8, a distance of 2644.45 feet to the South quarter corner of said Section 8; thence continuing along said South line, North 90 degrees 00 minutes 00 seconds West 1342.00 feet; thence Northwesterly at a right angle to the Sauk River to the centerline of the Sauk River; thence Northerly, Westerly and Northeasterly along said centerline of the Sauk River to the intersection with the Southerly right-of-way line of said Burlington Northern Railroad, said point bears North 85 degrees 06 minutes 57 seconds West from the Point of Beginning; thence South 85 degrees 06 minutes 57 seconds East, along said Southerly right-of-way line, 1763 feet more or less to the Point of Beginning. Containing 126.4 acres more or less. Subject to 3rd Street North and 10th Avenue right-of-way easement and subject to any easements of record.

This property is hereinafter referred to as the "BN site".



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Page 2 of 7

3. Great Northern Railroad began railroad car construction and maintenance operations at the BN site in approximately 1894. During the next seventy years, the Great Northern Shop and later the St. Cloud Shop manufactured and maintained railroad equipment at the site. This included wooden box cars, steel baggage cars, steel box cars, snow dozers, wheel flats, weed spray cars, outfit cars, and other types of railroad equipment. Since approximately 1963, the shop has been devoted exclusively to performing repairs to various types of freight equipment. Most operations at the site are currently shut down.

4. The primary substances in the shallow and deep aquifers on the BN site include 1,1-dichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,2,2-tetrachloroethylene, and chloroform. Total volatile organic compound concentrations are generally higher in the deeper aquifers, ranging from not detected at Wells 2D and 11D to 232 ug/l at Monitoring Well 12D. Concentrations in the shallow aquifers range from not detected at several locations to 64 ug/l at Monitoring Well 4D.

5. Four areas on the BN site from which substances may have been released to the soil or ground water are identified in the Request For Response Action (RFRA) issued by the Minnesota Pollution Control Agency on October 22, 1985. Existing data pertaining to each of these areas are discussed below. Additionally, several other possible source areas were identified during the site visit, employee interviews, and review of BN records. These areas are also discussed. The attached site map specifically identifies the following areas:



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Page 3 of 7

a. Waste Lagoons West of 10th Avenue

1974 aerial photos of the site indicate the presence of three waste lagoons near the western end of the Car Shop. According to BN records and employee interviews, paint waste, heavy oils and sludge from the Power Plant and shop operations may have been disposed of in this area. Other materials, such as welding wire, bolts, rivets, and sandblast sand, may also have been placed in the lagoons. The lagoons were subsequently covered with soil, and grass later grew at the surface. An oily material can sometimes be seen oozing from the cover material.

b. Calcium Hydroxide (Lime) Disposal Area

An acetylene plant operated at the BN site during the 1950's and 1960's. Calcium hydroxide (lime) residues generated during the operation of the facility were discarded in an area at the southwest corner of the shop complex. The lime was sometimes used locally for whitewash. In addition, cooking oil and molasses from steam-cleaning tank cars may have been disposed of at this location. The area was subsequently covered with soil in which grass later grew.

It should be noted that originally it was reported that calcium carbide was disposed of at this location. Since calcium carbide readily reacts with water (rain) to form calcium hydroxide, the latter is considered the most likely substance in this area.

c. Paint Shop

The Paint Shop is located in the west-central portion of the BN site. This facility was used to repaint and stencil railroad cars after they were stripped, sandblasted, and repaired elsewhere in the Car Shop.



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Repainting the cars was accomplished by spray painting in an area having a dirt floor.

Site plans indicate that two underground storage tanks are located south of the Paint Shop.

d. Possible Barrelled Paint Waste Disposal Area

According to outside sources, there may be barrels of paint waste from the Paint Shop buried on the BN site. There is very little information available regarding such disposal. However, if this did occur, the area east of the municipal wells, near the railroad spur, is considered the most likely location.

e. Other Possible Source Areas

In addition to the potential source areas described previously, several other areas on the BN site may have been contaminant sources. A brief description of these other possible source areas follows:

A half-buried tank that once contained No. 6 fuel oil is located south of the Boiler Building. Some fuel and sludge remain in the tank.

A tank car may have been buried near the northern boundary of the BN property. It is reported that a black liquid oozes to the surface above the tank car on a hot day.

The area immediately east of the municipal well houses has been used for sandblast disposal. Sand and paint chips are still visible on the ground surface.

Other possible source areas for potential soil and ground-water contamination on the BN site have been identified on the attached map. They are the waste lagoons, the calcium hydroxide disposal area, the Paint Shop, the possible barrelled paint waste disposal area, an underground fuel tank south of the Boiler Building, a buried railroad car containing wastes, and the sandblast disposal area.



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Page 5 of 7

The previously described generalizations were made based on the available data. However, there are gaps and inconsistencies in the data and further investigations are required in order to more completely characterize the nature and extent of possible soil and ground-water contamination in the study area.

THOMAS J. PATNODE

Subscribed and sworn to before me
this 20th day of August, 1986.

Notary Public

L.E. SANDSTROM
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Aug. 20, 1991

This instrument was drafted by
Sales and Property management
Burlington Northern management
Burlington Northern Railroad Company
3300 Continental Plaza
777 main St.
Fort Worth TX 76102



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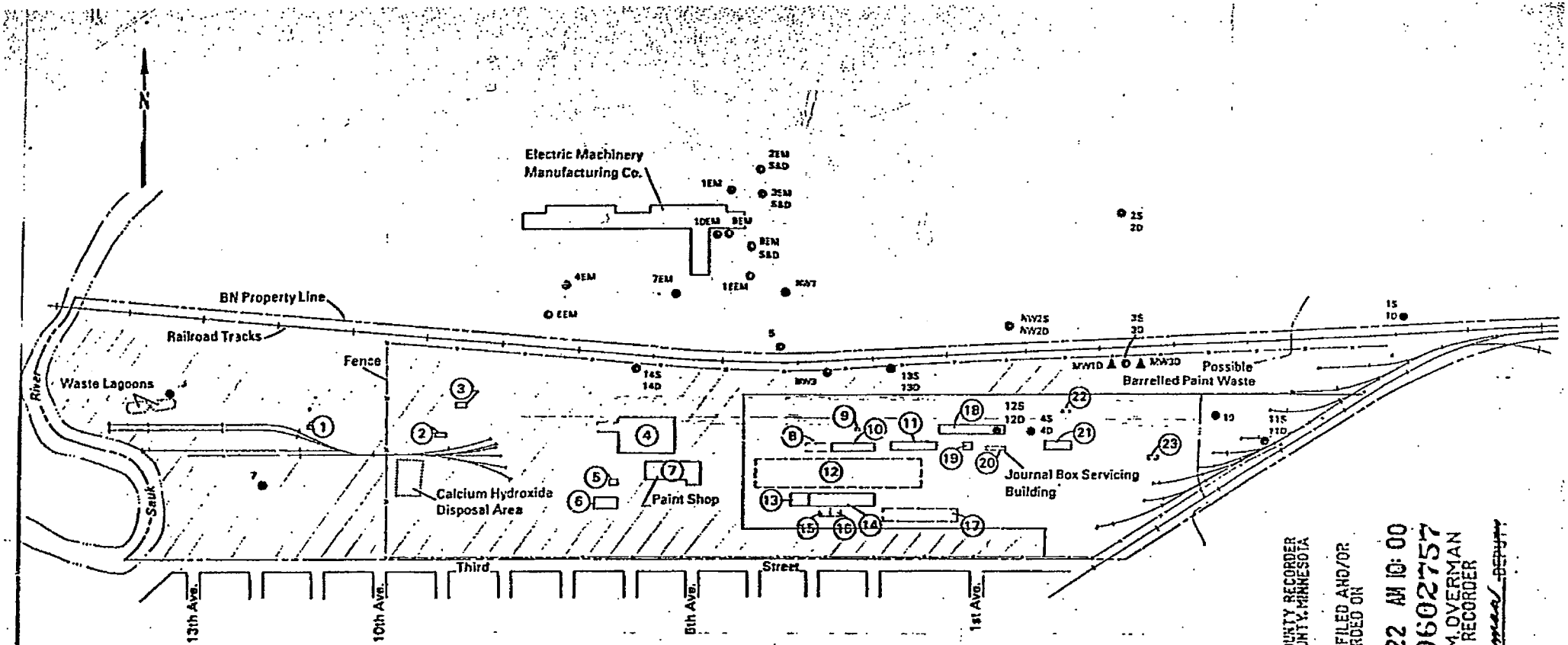


EXPLANATION

BUILDINGS

1. Personnel Quarters
2. Service Building
3. Metal Building
4. Steel Car Shop
5. Air Comp/Boiler Building
6. Truck Shop
7. Paint Shop
8. Machine Shop
9. Blacksmith Shop
10. Blacksmith Shop
11. Store House
12. Car Repair Shop
13. Bulk Storage
14. Woodwork Shop
15. Boiler House
16. Electric Building
17. Lumber Shed
18. Storage Warehouse
19. Oil and Paint Storage
20. Journal Box Servicing Shop
21. Storage Warehouse
22. Switchman's House
23. Storage Building

Existing Building (as of Feb., '88)

Building No Longer In Existence

Fence

MW1D Municipal Supply Wells

125 / 12D Monitoring Wells

DONATED PROPERTY

SCALE 0 100 200 400

PROPERTY BORDERS NOT TO SCALE

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
CERTIFIED, FILED AND/OR RECORDED ON
1986 AUG 22 AM 10:00
AS DOC. # 0602757
PATRICIA M. OVERMAN
COUNTY RECORDER
BY
DEPUTY
MICROFILMED
Page 7 of 7

Figure 1-2 Site Map, Waite Park Site, Waite Park, Minnesota

0602758

# QUITCLAIM DEED

BURLINGTON NORTHERN RAILROAD COMPANY (formerly named Burlington Northern Inc.), a Delaware corporation, Grantor, for Ten and No/100 Dollars ($10.00) conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns as to warranties of title, to the CITY OF WAITE PARK, a municipal corporation, of City Hall, P. O. Box 339, 253 North 5th Avenue, Waite Park, Minnesota 56387, Grantee, all its right, title and interest, if any, in the following described real estate:

That part of the South Half of the Southwest Quarter (S½ SW¼) and the South Half of the Southeast Quarter (S½ SE¼) of Section 8, Township 124 North, Range 28 West, together with that part of the South Half of the Southwest Quarter (S½ SW¼) of Section 9, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the South quarter corner of said Section 8; thence North 00 degrees 09 minutes 53 seconds West, assumed bearing, along the North-South quarter line and along the centerline of 10th Avenue, a distance of 1182.41 feet to a point on the Southerly right-of-way line of Burlington Northern Railroad, said point being the Point of Beginning of the following described parcel; thence South 85 degrees 06 minutes 57 seconds East, along said Southerly right-of-way line, 1595.99 feet; thence Easterly a distance of 760.22 feet along a tangential curve concave to the North having a radius of 5729.58 feet and a central angle of 07 degrees 36 minutes 08 seconds; thence North 87 degrees 16 minutes 55 seconds East, along said Southerly right-of-way line, and along tangent 2943.41 feet to the East line of said Southwest Quarter of Section 9; thence South 00 degrees 25 minutes 17 seconds East, along said East line, 186.37 feet; thence South 57 degrees 43 minutes 00 seconds West 399.31 feet; thence South 88 degrees 39 minutes 10 seconds West 621.65 feet; thence North 78 degrees 37 minutes 20 seconds West 755.25 feet; thence North 89 degrees 57 minutes 55 seconds West 1614.25 feet; thence South 00 degrees 02 minutes 05 seconds West 467.56 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East 183.34 feet; thence South 00 degrees 02 minutes 05 seconds West 177.16 feet; thence South 89 degrees 59 minutes 25 seconds East 1514.10 feet; thence South 08 degrees 12 minutes 25 seconds East 174.12 feet to a point on the South line of said Section 9; thence North 89 degrees 33 minutes 37 seconds West, along said South line, 938.16 feet to the Southwest corner of said Section 9; thence North 90 degrees 00 minutes 00 seconds West, along the South line of said Section 8, a distance of 2644.45 feet to the South quarter corner of said Section 8; thence continuing along said South line, North 90 degrees 00 minutes 00 seconds West 1342.00 feet; thence Northwesterly at a right angle to the Sauk River to the centerline of the Sauk River; thence Northerly, Westerly and Northeasterly along said centerline of the Sauk River to the intersection with the Southerly right-of-way line of said Burlington Northern Railroad, said point bears North 85 degrees 06 minutes 57 seconds West from the Point of Beginning; thence South 85 degrees 06 minutes 57 seconds East, along said Southerly right-of-way line, 1763 feet more or less to the Point of Beginning. Containing 126.4 acres more or less. Subject to 3rd Street North and 10th Avenue right-of-way easement and subject to any easements of record. Also subject to the following described easements:

SUBJECT, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise.

RESERVING, however, unto the Grantor, its successors and assigns, the right of ingress and egress at all times to the hereinabove described property for the purpose of performing soil tests, remedial or corrective clean up actions as may be required at any time on or within any portion of the above described property.

ALSO

RESERVING, however, unto said Grantor, its successors and assigns, and any designees a nonexclusive roadway easement and utility easement upon, over and across the hereinabove described premises for construction, maintenance and use of a roadway thereon for ingress and egress by the Grantor, its successors and assigns, and any designees, together with the Grantees, to and from adjacent property of the Grantor, described as follows:

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A 66-foot roadway and utility easement over, under and across that part of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, 660.00 feet; to the Point of Beginning of the centerline of said 66-foot roadway and utility easement; thence North 00 degrees 00 minutes 00 seconds East 342.59 feet and there terminating. The side lines of said easement shall be prolonged or shortened to terminate at the property lines.

ALSO

RESERVING, however, unto said Grantor, its successors and assigns, easements to use said premises for pole and wire line or lines, together with all appurtenant fixtures necessary in connection therewith, whether in the present form and location or in such form and location as may hereafter be substituted therefor, together with the right, privilege and easements of ingress and egress to said premises for the purpose of constructing, maintaining, replacing, repairing, renewing and removing the same, as follows:

A 20-foot utility easement over, under and across that part of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼) of Section 9, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the Southwest corner of said Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the South line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet to the Point of Beginning of said 20-foot utility easement, said 20-foot easement lies South and contiguous to the following line; thence North 89 degrees 59 minutes 25 seconds West 800.00 feet and there terminating. The side lies of said easement shall be prolonged or shortened to terminate at property lines.

AND

A 30-foot utility easement over, under and across that part of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 8; Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, 627.00 feet; thence North 00 degrees 00 minutes 00 seconds East 262.57 feet to the Point of Beginning of the centerline of said 30-foot utility easement; thence South 79 degrees 10 minutes 27 seconds East 26.71 feet and there terminating. The side lines of said easement shall be prolonged or shortened to terminate at the property lines.

To have and to hold said hereinabove easements reserved so long as the same is used or required for such purposes and until all such facilities are removed from said premises with the intent to abandon said easements.

ALSO

EXCEPTING AND RESERVING, however, unto said Grantor, its successors and assigns, all of the coal, oil, gas, casinghead gas and all ores and minerals of every kind and nature underlying the surface of the premises herein conveyed, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the premises herein conveyed, together with the right of access at all times to exercise said rights.

Grantor agrees to indemnify the City of Waite Park for any and all reasonable costs incurred by the City of Waite Park for cleaning up contaminants, pollutants or hazardous wastes or hazardous substances which existed on the property described herein before the date of the transfer of this deed. It is the intention of the parties in this paragraph that in such event they



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Page 2 of 4

will consult with each other in an effort to reach agreement on the reasonableness of the clean up. Nothing in this paragraph shall be construed to relieve Burlington Northern of any of its obligations under Minnesota law to clean up contaminants, pollutants or hazardous substances on the property described herein which existed before the date of transfer of this deed.

Grantor and Grantee state that the acceptance of this deed by Waite Park is in no way intended as payment or satisfaction or compromise of whatever rights the City may have with relation to its water contamination problems against either Burlington Northern or any other responsible party.

Grantor agrees to proceed with the clean up of hazadous substances located on the property described herein within 12 months of the date of this deed.

Dated this 20th day of August, 1986.

BURLINGTON NORTHERN RAILROAD COMPANY

BY _____

ATTEST:

BY _____
Assistant Secretary

ACCEPTED:

CITY OF WAITE PARK

BY _____
Title: Mayor

ATTEST:

BY _____
Title: Clerk/Treasurer

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 20th day of August, 1986, by Alcuin J Ringsmuth, mayor and Jeffrey Baird, Clerk of City of Waite Park, a municipal corporation, on behalf of the corporation.

_____
Notary Public.

GORDON H. HANSMEIER
NOTARY PUBLIC—MINNESOTA
BENTON COUNTY
MY COMM. EXPIRES MAR. 31, 1991

My commission expires: _____



MICROFILMED
Page 3 of 4

STATE OF TEXAS )
) ss.
COUNTY OF TARRANT )

The foregoing instrument was acknowledged before me this 20th day of August, 1986, by M. H. Karl, Sr. Asst VP and J. D. Hanke, Assistant Secretary of Burlington Northern Railroad Company, a Delaware corporation, on behalf of the corporation.

Frances Smith
Notary Public.

My commission expires: 6-13-88

FRANCES SMITH
Notary Public State of Texas
Commission Expires June 13, 1988

This instrument was drafted by
Sales and Property Management,
Burlington Northern Railroad Company
3300 Continental Plaza
777 Main Street
Fort Worth, TX 76102

State deed tax due hereon $ 2.20.

Tax statements for the real property described in this instrument should be sent to:

City of Waite Park
City Hall, P. O. Box 339
253 North 5th Avenue
Waite Park, MN 56387

Consideration for this transaction is $1,000 or less.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1986 AUG 22 AM 10: 01

AS DOC. # 0602758
PATRICIA M. OVERMAN
COUNTY RECORDER
BY L. Overman DEPUTY

DTAX 2.20
D001 1000002 0001 9:47AM 8/22/86

NO DELINQUENT TAXES AND TRANSFER ENTERED
DATE AUG 22 1986
AUDITOR H. J. Kohnert
Fay Esselman-Kiehe
DEPUTY

BN 8289
QD 8



MICROFILMED
Page 4 of 4

0602786

# CONTRACT FOR DEED

That this agreement, made and entered into this 22nd day of August, 1986 by and between the City of Waite Park, a municipal corporation under the laws of the State of Minnesota, party of the first part, and Watab, Inc., party of the second part.

Witnesseth, that said party of the first part in consideration of the covenants and agreements of said party of the second part hereinafter contained, hereby sells and agrees to convey unto said party of the second part by a quit claim deed upon the prompt and full performance of said party of the second part of the tract lying and being in the County of Stearns, State of Minnesota, described as follows, to-wit:

That part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 76.23 feet to the point of beginning of the parcel to be described; thence South 89 degrees 36 minutes 13 seconds West 749.64 feet; thence North 00 degrees 02 minutes 05 seconds East 355.81 feet; thence North 77 degrees 14 minutes 11 seconds East 174.12 feet; thence South 89 degrees 57 minutes 55 seconds East 693.17 feet; thence South 00 degrees 02 minutes 05 seconds West 367.67 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 21.07 feet to the point of beginning. Containing 7.62 acres. Subject to a roadway easement over and across the east 22.00 feet thereof, and subject to any easements of record.

MICROFILMED

TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southeast corner of said Section 8, thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the center line to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet to the intersection with the south line of the above described parcel and there terminating. The side lines of said easement shall be prolonged or shortened to intersect.

And said party of the second part in consideration of the premises hereby agrees to pay party of the first part at Waite Park, Minnesota as and for the purchase price of said premises the sum of $670,000 in a manner and at times as following, to-wit: The balance of the $670,000 would be carried at no interest for the first five years of the contract, with $8,375 a principal reduced for each permanent job created and certified to the City at the fifth year anniversary of the contract. Within ten days of entering into this contract for deed, the second party shall certify to the City Clerk of the City of Waite Park the number of current full-time employed people who have been with second party for at least a period of six months. The certification by second party to the City of Waite Park at the fifth year anniversary of the contract shall be the average number of employees employed by second party over the one-year period preceding the fifth anniversary of this contract.

In the event the party of the second part has not secured enough full-time employees to completely reduce the principal balance of this contract for deed at the fifth year anniversary, the



MICROFILMED
Page 2 of 7

party of the first part, Waite Park has the option to immediately cancel this contract for deed in its discretion, or the parties may agree to renegotiate the terms of the contract if the party of the first part, Waite Park decides in its sole option to negotiate. In any event, party of the second part has the right to pay cash for the remaining principal balance to satisfy this contract.

The City of Waite Park agrees to subordinate its interest under this contract for deed to financial institutions which are advancing capital improvements to this project. This subordination will be only to those debts, mortgages or encumbrances to the extent that actual improvements are being made on the property covered by this contract for deed.

The second party Watab, Inc. agrees to make the following minimum improvements by January 1, 1988, following entry into this contract:

1. Installing automatic sprinklers in all buildings located on this property.

2. Renovate offices in the steel shop building.

3. Install two 50-ton cranes in the high bay of the steel shop.

4. Watab, Inc., party of the second part, agrees to hold the City of Waite Park harmless and indemnify it from any costs and claims arising or involving costs of cleaning up contaminants, pollutants, hazardous wastes or hazardous substances located on the property granted herein.

This contract for deed is non-assignable to any other person, entity or party without the express written consent of the



MICROFILMED
Page 3 of 7

City of Waite Park. The property described in this contract shall not be leased without the express written consent of the City of Waite Park. The parties stipulate and agree that the purpose and intent of this contract for deed are to promote employment and tax base from the City's perspective and their decision to permit or not to permit any assignment or other leasing of this property will be subject to the City's sole discretion and whether or not the spirit and intent of this contract are being protected.

Said party of the second part further covenants and agrees to pay all taxes due and payable in the year 1987 and in subsequent years and all special assessments heretofore or hereafter levied. Furthermore, that any buildings or improvements now on said land which shall hereafter be erected, placed or made thereon shall not be removed but shall remain and shall be the property of the party of the first part until this contract shall be fully performed by party of the second part; party of the second part further agrees at its own expense to keep the buildings on the said premises insured by a reliable insurance company or companies and to be approved by party of the first part and party of the first part shall be named as a named insured. Should default be made in the payment of principal or any part required under this contract or in the event of any default of any condition or performance by party of the second part, said party of the first part may at its option by written notice declare this contract cancelled and terminated and all right, title and interest acquired thereunder by said party of the second part shall cease and terminate, and all improvements made upon the premises and all payments made hereunder shall belong to



MICROFILMED
Page 4 of 7

party of the first part as liquidated damages for breach of this contract by said second party, said notice to be in accordance with the Minnesota Statutes in such case made and provided. Either the extension of time of payment of any sum or sums of money or for consideration to be paid hereunder, nor any waiver of the party of the first part of its rights to declare this contract forfeited by reason of any breach thereof, shall in any manner affect the right of said party to cancel this contract because of defaults subsequently maturing, and no extension of time shall be valid unless evidenced by duly signed instrument. Further, after service of notice and failure to remove, within the period allowed by law, the default therein specified, said party of the second part hereby specifically agrees upon demand of party of the first part, quietly and peaceably to surrender its possession of said premises, and every part thereof, it being understood that until such default, said party of the first part shall have possession of said premises.

In Witness Whereof, the parties have hereto set their hands on the day and year first above written.

CITY OF WAITE PARK

By _____
Its Mayor

By _____
Its City Clerk / Treasurer



MICROFILMED
Page 5 of 7

WATAB, INC.

By Ed Gnifkowski
Its Vice Pres

By _____
Its _____

STATE OF MINNESOTA)
)SS
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 22nd day of August, 1986, by Alcuin J. Ringsmuth, and Jeffrey J. Baird the Mayor and City Clerk of the City of Waite Park, a Minnesota municipal corporation, on behalf of the corporation.

RUTH RAUSCH
NOTARY PUBLIC—MINNESOTA
STEARNS COUNTY
MY COMM. EXP. MAY 13, 1989

Ruth Rausch
Notary Public

STATE OF MINNESOTA)
)SS
COUNTY OF Stearns)

The foregoing instrument was acknowledged before me this 22nd day of August, 1986, by Ed Gnifkowski ~~xxxx~~ _____, the Vice President and _____ of Watab, Inc., a Minnesota corporation, on behalf of the corporation.

Ruth Rausch
Notary Public

RUTH RAUSCH
NOTARY PUBLIC—MINNESOTA
STEARNS COUNTY
MY COMM. EXP. MAY 13, 1989



MICROFILMED
Page 6 of 7

Drafted by:

Gordon H. Hansmeier
DONOHUE, RAJKOWSKI, HANSMEIER,
GKUNKE, & JOVANOVICH, LTD.
Attorneys at Law
11 Seventh Avenue North
St. Cloud, MN 56301
Telephone: (612) 251-1055

TAX STATEMENTS TO BE SENT TO:

Watab, Inc.
600 North Fifth Street
Waite Park, MN 56387

Penalty as per MS 507.235 (✓) EXEMPT
( ) IMPOSED ( ) PAID. $ _____
Treasurer's Receipt No. _____
AUG 22 1986
Date
Countersigned _____
County Treasurer
County Auditor
Deputy Auditor

CERTIFICATE OF REAL ESTATE
VALUE FILED THIS
AUG 22 1986

NO DELINQUENT TAXES AND
TRANSFER ENTERED
DATE AUG 22 1986
AUDITOR _____
DEPUTY _____

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

1986 AUG 22 PM 3:53

AS DOC. # 0602786
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

MICROFILMED
Page 7 of 7

Form No. 31-M—QUIT CLAIM DEED Minnesota Uniform Conveyancing Blanks (1978) OSWALD PUBLISHING CO., NEW ULM, MINN.

Corporation or Partnership to Corporation or Partnership **0616671**

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ✓ ) not required
Certificate of Real Estate Value No. _____
APR 14 1987, 19 ____

H J Kohorst
County Auditor

by John W Zopp
Deputy

STATE DEED TAX DUE HEREON: $ -0-

Date: April 6, 19 87

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON
'87
1987 APR 14 AM 11: 38
AS DOC. # 0616671
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

(reserved for recording data)

FOR VALUABLE CONSIDERATION, The City of Waite Park, a Municipal Corporation under the laws of Minnesota, Grantor, hereby conveys and quitclaims to Park Press, Inc., Grantee, a corporation under the laws of Minnesota, real property in Stearns County, Minnesota, described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; the North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. (If more space is needed, continue on back) (continued on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

CITY OF WAITE PARK

By Alcuin J Ringsmuth
Its Mayor

By Jeffrey J. Baird
Its City Clerk

STATE OF MINNESOTA
COUNTY OF STEARNS } ss.

The foregoing was acknowledged before me this 6th day of April, 1987, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk of The City of Waite Park, a Municipal Corporation under the laws of Minnesota, on behalf of the corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

KENNETH E. DICKINSON
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 20, 1991

Kenneth E. Dickinson
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Park Press, Inc.
110 Tenth Avenue South
Waite Park, MN 56387

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
✓DONOHUE, RAJKOWSKI, HANSMEIER, GRUNKE & JOVANOVICH, LTD.
11 Seventh Avenue North
P.O. Box 1511
St. Cloud, MN 56302

MICROFILMED
Page 1 of 2

Containing 3.00 acres. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

MICROFILMED
Page 2 of 2

This STATEMENT is presented for filing pursuant to the Uniform Commercial Code

Debtor(s) (Last Name First) and Address(es)
PARK PRESS QUALITY PRINTING, INC.
P. O. Box 475
Waite Park, Mn. 56387

0617873

Secured Party(ies) and Address(es)
THE FIRST AMERICAN NATIONAL BANK OF ST. CLOUD
P. O. Box 847
St. Cloud, Mn. 56302

For OFFICE OF COUNTY RECORDER
Filing Officer STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON
1987 MAY -4 AM 10: 29
AS DOC. # 099106
PATRICIA M. OVERMAN
COUNTY RECORDER
Assignee(s) of Secured Party
BY _____ DEPUTY

1. This financing statement covers the following types (or items) of property: (Set forth legal description of property and name of record owner) All of debtor's inventory, documents evidencing inventory, accounts, chattel paper, general intangibles, and contract rights, now or hereafter existing, and all of debtor's fixtures, equipment and motor vehicles, now owned or hereafter acquired, wheresoever the same may be situated, together with all accessories, attachments, substitutions, replacements, renwwals, additions, betterments and repairs made to or upon such property.
Legal attached.

2. [X] Products/Proceeds of Collateral are also covered by this Statement

3. [X] This is a Fixture Filing or covers timber, minerals, or accounts subject to M.S. 336.9-103(5)

Provide Name and Address of Drafter:
First American Natl Bank
P. O. Box 847
St. Cloud, Mn. 56302

4. [X] Abstract Property
[ ] Torrens Property
Title Number: _____
(Submit Owners Duplicate Certificate)

___ Additional sheets presented.
___ Debtor is a transmitting utility as defined in M.S. 336.9-105.
___ For Filing with the Secretary of State of Minnesota.
X For Filing with the County Recorder Stearns County.
X For Filing in Uniform Commercial Code Records.
X For Filing in Real Estate Records.

Signature(s) of Debtor(s): (Required in most cases - see Instruction #5)
PARK PRESS QUALITY PRINTING, INC.
X _____ X _____
James J. Blommer, Pres Dorothy A. Blommer, VP & Sec

If the Debtor's signature is not present, indicate the reason for its absence in the Debtor's signature block and sign the Secured Party's signature block.

Signature of Secured Party
BY: _____

(Rev. 6/84)
(1) FILING OFFICER COPY—ALPHABETICAL

[redacted] part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Containing 3.00 acres. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section 8, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

MICROFILMED

0617873

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

1987 MAY -4 AM 10: 29

AS DOC. # 0617873
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P Overman DEPUTY

MICROFILMED
Page 1 of 2

0618025

# MORTGAGE
(Participation)

This mortgage made and entered in o this 5th day of May 19 87 , by and between Park P.ess Quality Printing, Inc.

(hereinafter referred to as mortgagor) and

The First American National Bankof St. Cloud (hereinafter referred to as mortgagee), who maintains an office and place of business at 1100 W. St. Germain, St. Cloud, MN

WITNESSETH, that for the consideration hereinafter stated, receipt of which is hereby acknowledged, the mortgagor does hereby mortgage, sell, grant, assign, and convey unto the mortgagee, his successors and assigns, all of the following described property situated and being in the County of Stearns State of Minnesota:

That part of the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Containing 3.00 acres. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and agress over and across that part of the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section 8, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

Together with and including all buildings, all fixtures including but not limited to all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning apparatus, and elevators (the mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon; the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, all rights of redemption, and the rents, issues, and profits of the above described property ( provided, however, that the mortgagor shall be entitled to the possession of said property and to collect and retain the rents, issues, and profits until default hereunder). To have and to hold the same unto the mortgagee and the successors in interest of the mortgagee forever in fee simple or such other estate, if any, as is stated herein.

The mortgagor covenants that he is lawfully seized and possessed of and has the right to sell and convey said property; that the same is free from all encumbrances except as hereinabove recited; and that he hereby binds himself and his successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

This instrument is given to secure the payment of a promissory note dated May 1, 1987 in the principal sum of $ 800,000.00, signed by James J. Blommer & Dorothy A. Blommer in behalf of ~~Park Press Quality Printing, Inc.~~ due and payable in -15- years from date of said Note, with interest at 1% over ~~per annum~~ New York Prime



MICROFILMED

IN WITNESS WHEREOF, the mortgagor has executed this instrument and the mortgagee has accepted delivery of this instrument as of the day and year aforesaid.

PARK PRESS QUALITY PRINTING, INC.

By: (X) James Blommer
James J. Blommer, President

By: (X) Dorothy A. Blommer
Dorothy A. Blommer, Corporate Secretary

Executed and delivered in the presence of the following witnesses:

(Add Appropriate Acknowledgment)

State of Minnesota, } ss.
County of Stearns

On this 1st day of May, 1987, before me, a notary public within and for said County, personally appeared James J. Blommer and Dorothy A. Blommer to me personally known, who, being each by me duly sworn they did say that they are respectively the President and the Corporate Secretary of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said James J. Blommer and Dorothy A. Blommer acknowledged said instrument to be the free act and deed of said corporation.

THIS INSTRUMENT WAS DRAFTED BY

The First American National Bank
(Name)
1100 W. St. Germain
St. Cloud, MN 56301
(Address)

Michael R. Cleland
Notary Public Stearns County, Minn.
My commission expires August 4, 1987

MICHAEL R. CLELAND
NOTARY PUBLIC—MINNESOTA
STEARNS COUNTY
My Commission Expires August 4, 1987

This Instrument Was Drafted By:
The First American National Bank
St. Cloud, Minn. 56301

0618025

MORTGAGE

Date MAY 5 1987
Registration Tax Hereon of $ 1200.00
Treasurer's Receipt No. TO 88195
County Treasurer
Deputy
Countersigned
County Auditor
By Fay Eisselman-Kiedler Deputy

RECORDING DATA

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1987 MAY -5 PM 1:59

AS DOC. # 0618025
PATRICIA M. OVERMAN
COUNTY RECORDER
BY D. Grundhoefer DEPUTY

MICROFILMED
Page 4 of 4

RETURN TO:
Name
Address

U.S. GOVERNMENT PRINTING OFFICE: 1973 O - 486-817
RA 3424 TI

0629149

# AFFIDAVIT OF IDENTITY OF NON-IDENTITY

STATE OF MINNESOTA )
)ss.
COUNTY OF STEARNS )

James J. Blommer, being first duly sworn under oath deposes and states the following as to the transactions involving real property in Stearns County, Minnesota, described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; the North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning.

Subject to a utility easement over, under and across the East 50 feet of the South 25 feet of the above described tract.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

MICROFILMED

1. I am the President of Park Press Quality Printing, Inc. a corporation under the Laws of Minnesota. Our business address is 110 South 10th Avenue, Waite Park, Minnesota 56387.

2. As part of my duties at Park Press Quality Printing, Inc., I was involved with the acquisition of the above described real property from the City of Waite Park. Between April 6, 1987 and May 5, 1987 this transaction was completed and the following were placed of record in the office of the County Recorder for Stearns County.

   A. Document No. 616671, a Quit Claim Deed between the City of Waite Park, grantor and Park Press, Inc., grantee.

   B. Document No. 618025, a Mortgage by Park Press Quality Printing, Inc., mortgagor and the The First American National Bank of St. Cloud, mortgagee.

   C. Document No. 618026, an Assignment of Rents and Leases between Park Press Quality Printing, Inc. and The First American National Bank of St. Cloud.

   D. Document No. 618027, a Mortgage between Park Press Quality Printing, Inc. and The First American National Bank of St. Cloud.

3. Document No. 616671 contains an error in the grantees name. The grantee's name should have read, Park Press Quality Printing, Inc. rather than Park Press, Inc.

4. At no time has Park Press Quality Printing, Inc. been incorporated under the name of Park Press, Inc.

FURTHER THIS AFFIANT SAITH NOT.

MICROFILMED
Page 2 of 3

James J. Blommer

Subscribed and sworn to before me this 19th day of Oct., 1987.

Notary Public

John W. Gibbons
Notary Public-Minnesota
Sherburne County
My Comm. Exp. 12-30-89

DRAFTED BY:
Tri County Abstract and Title Guaranty, Inc.
400 First Street South, PO Box 1332
St. Cloud, MN 56302

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON
81.
1987 OCT 29 AM 11: 26
AS DOC.# 0629149
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

MICROFILMED
Page 3 of 3

TCA 34319 TI

Form No. 2031 M—QUIT CLAIM DEED Minnesota Uniform Conveyancing Blanks (1978)

Corporation or Partnership
to Corporation or Partnership

0629150

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ✓ ) not required
Certificate of Real Estate Value No. _____
OCT 29 1987, 19 ____

H. J. Kohout
County Auditor

by Joan M. Larson
Deputy

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON
87
1987 OCT 29 AM 11: 26
AS DOC. # 0629150
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

(reserved for recording data)

STATE DEED TAX DUE HEREON: $ 1.65

Date: October 28, 19 87

FOR VALUABLE CONSIDERATION, The City of Waite Park, a Municipal Corporation under the laws of Minnesota, Grantor, hereby conveys and quitclaims to Park Press Quality Printing, Inc., Grantee, a Corporation under the laws of Minnesota, real property in Stearns County, Minnesota, described as follows:

SEE REVERSE SIDE FOR LEGAL DESCRIPTION WHICH IS MADE A PART HEREOF.

This quit claim deed is being filed to correct an error in the grantees name as found in Document No. 0616671, recorded in the office of County Recorder, Stearns County, Minnesota.

DEED TAX # 1102987 6802
ST DEED TAX 134 1.65
10/29/87 11:21:30
CLRK 6 CSH TOS 1 0 6802

Total Consideration is less than $500.00

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

City of Waite Park

By Alcuin J. Ringsmuth
its Mayor

By Jeffrey J. Baird
Its City Clerk

STATE OF MINNESOTA
COUNTY OF Stearns } ss.

The foregoing was acknowledged before me this 28TH day of OCTOBER, 1987, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk of The City of Waite Park, a Municipal Corporation under the laws of Minnesota, on behalf of the Corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

KENNETH E. DICKINSON
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 29, 1991

Kenneth E. Dickinson
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

Park Press Quality Printing, Inc.
110 Tenth Avenue South
Waite Park, MN 56387

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

TRI COUNTY ABSTRACT & TITLE GUARANTY, INC.
NORWEST CENTER
400 FIRST ST. SO., ST. CLOUD, MN 56301
P.O. BOX 1332, ST. CLOUD, MN 56302

MICROFILMED
Page 1 of 2

TCA 34019 TI

0629150

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; the North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. *Containing 3.00 Acres.*

Subject to a utility easement over, under and across the East 50 feet of the South 25 feet of the above described tract.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

MICROFILMED
Page 2 of 2

0645994 GRANT OF EASEMENT

The City of Waite Park, hereinafter referred to as Grantor, gives to ABB Power Distribution, Inc., hereinafter referred to as Grantee, an easement over the following property and under the conditions set forth hereafter.

1. The easement shall be a 30-foot wide perpetual easement for the sole purpose of locating a waste water force main for discharge of air stripping effluents over, under and across the Southwest Quarter of the Southeast Quarter of Section 8, Township 124, Range 28, Stearns County, Minnesota, said easement lying 30 feet southerly of and parallel with the following described line:

> Commencing at the Southwest Corner of said Southwest Quarter of the Southeast Quarter; thence along the West line of said Southwest Quarter of the Southeast Quarter on an assumed bearing of North 00 degrees 09 minutes 53 seconds West a distance of 1182.41 feet to the point of beginning, said point also being at the southerly right-of-way of the Burlington Northern Railroad; thence with said right-of-way:
>
> 1. South 85 degrees 06 minutes 57 seconds East 1595.98 feet to a point of curve; thence continuing with said right-of-way; and
>
> 2. Easterly along a curve concave to the left 575.37 feet, said curve having a radius of 5729.58 feet and a central angle of 05 degrees 45 minutes 13 seconds, and said line there terminating.

2. That the location of the main shall be within three feet of the existing force main and parallel to it with final approval of the location to be made by the Waite Park City Engineer.

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3. This easement shall terminate on September 1, 2008. And shall be without cost to Grantee.

4. Grantee agrees to indemnify and hold harmless Grantor from any claims and causes of action whatsoever arising out of the use, discharge, operation, maintenance or any other act or occurrence by Grantee or its agents. arising out of the use of said easement, including the Grantor's own negligence, and furthermore agrees that all costs of said installation shall be borne by Grantee and any maintenance or costs of removal of said pipe shall be borne by Grantee.

Dated this 18th day of August, 1988.

THE CITY OF WAITE PARK, MINNESOTA

By _____
Alcuin J. Ringsmuth, Mayor

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

On this 18th day of August, 1988, before me, a notary public, personally appeared Alcuin J. Ringsmuth, to me personally known, who, being by me duly sworn did say that he is the Mayor of the City of Waite Park, a municipal corporation, and acknowledged said instrument to be the free act and deed of said corporation.

JONELLE LODERMEIER
NOTARY PUBLIC-MINNESOTA
STEARNS COUNTY
Commission Expires Jan. 20, 1992

_____
Notary Public

ABB POWER DISTRIBUTION, INC.

By _____
Its V.P.



MICROFILMED
Page 2 of 3

STATE OF MINNESOTA)
HENNEPIN ) ss.
COUNTY OF ~~STEARNS~~ )

On this 11th day of August, 1988, before me, a notary public, personally appeared JOHANN WAGNER, to me personally known, who, being by me duly sworn did say that he is the V.P. of ABB Power Distribution, Inc. a corporation, and acknowledged said instrument to be the free act and deed of said corporation.

VICKY J. MICHELS
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Aug. 13, 1991

Vicky J. Michels
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
DONOHUE, RAJKOWSKI, HANSMEIER,
GRUNKE & JOVANOVICH, LTD.
11 Seventh Avenue North
P.O. Box 1511
St. Cloud, Minnesota 56302
Telephone: (612) 251-1055

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
'88 RECORDED ON

1988 SEP 28 AM 10: 25

AS DOC. 0645994
PATRICIA M. OVERMAN
COUNTY RECORDER
BY K. Overman DEPUTY



MICROFILMED
Page 3 of 3

NOTICE OF CANCELLATION
OF CONTRACT FOR DEED

Form No. 60D (8-86)

ORIG

0666784

# NOTICE OF CANCELLATION OF CONTRACT FOR DEED

SEP 7 89 AM

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1989 NOV 14 AM 10: 20

AS DOC # 0666784
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

(reserved for recording data)

TO: Watab, Inc., Credit America Savings (Credit) Company, Landwehr Heavy Moving, Inc., and PMC Sprinkler, Inc. and State of Minnesota by its Commissioner of Revenue and Internal Revenue Service, by its District Director, Attn: Chief, Special Procedures Section

YOU ARE NOTIFIED:

1. Default has been made in the conditions of that certain Contract for Deed ("Contract"), dated August 22, 1986, recorded August 22, 86, as Document Number 602786 (or in Book ____ of ____ Page ____), in the Office of the (Country Recorder) (Registrar of Titles) of Stearns County, Minnesota, in which The City of Waite Park as seller ____ sold and agreed to deed to Watab, Inc. as purchaser ____ the land and improvements ("Property") in Stearns County, Minnesota, legally described as follows:

That part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 182.34 feet; thence North 00 degrees 02 minutes 05 seconds East 76.23 feet to the point of beginning of the parcel to be described; thence South 89 degrees 36 minutes 13 seconds West 749.64 feet; thence North 00 degrees

(If more space is needed, continue on last page)
(SEE LAST PAGE FOR CONTINUATION OF LEGAL DESCRIPTION)

2. If applicable, the Contract has not been recorded or registered, but the mortgage registration tax on the Contract in the sum of $____ was paid to the Treasurer of ____ County, Minnesota, on ____, 19____, as evidenced by said Treasurer's Receipt No. ____;

3. That the condition S of the Contract which is (are) in default is (are) as follows:

1. Watab, Inc. has failed to pay the first half of 1989 Real Estate Taxes in the amount of $19,171.00, plus penalty and interest.

2. Watab, Inc., in violation of Contract for Deed and the City's agreement, leased a portion of this property to PMC Sprinkler, Inc.

(SEE ATTACHED EXHIBIT A FOR STATE AND FEDERAL TAX LIENS)

(If more space is needed, continue on last page)

~~4. For contracts executed after August 1, 1976 and prior to August 1, 1985, the original purchase price of the Property was $____ and the remaining unpaid is $____. Therefore, the purchaser has paid ____ percent of the purchase price exclusive of interest and excluding any mortgages, prior contracts for deed, taxes or other obligations which were assumed by purchaser.~~

5. That the conditions contained in Minnesota Statutes § 559.209 have been complied with (or are not applicable).

MICROFILMED
Page 1 of 5

6. THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE SELLER HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.21, TO TERMINATE YOUR CONTRACT FOR THE PURCHASE OF YOUR PROPERTY FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CONTRACT WILL TERMINATE 60 DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DATE OF PUBLICATION OF THIS NOTICE) UNLESS BEFORE THEN:

(A) THE PERSON AUTHORIZED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS 0

(2) THE COSTS OF SERVICE (TO BE SENT TO YOU); PLUS

(3) $ 250.00 TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) FOR CONTRACTS EXECUTED ON OR AFTER MAY 1, 1980, ANY ADDITIONAL PAYMENTS BECOMING DUE UNDER THE CONTRACT TO THE SELLER AFTER THIS NOTICE WAS SERVED ON YOU; PLUS

(5) FOR CONTRACTS EXECUTED ON OR AFTER AUGUST 1, 1985, $ 0 (WHICH IS TWO PERCENT OF THE AMOUNT IN DEFAULT AT THE TIME OF SERVICE OTHER THAN THE FINAL BALLOON PAYMENT, ANY TAXES, ASSESSMENTS, MORTGAGES, OR PRIOR CONTRACTS THAT ARE ASSUMED BY YOU); OR

(B) YOU SECURE FROM A COUNTY OR DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE CONTRACT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR CONTRACT WILL TERMINATE AT THE END OF THE PERIOD AND YOU WILL LOSE ALL THE MONEY YOU HAVE PAID ON THE CONTRACT; YOU WILL LOSE YOUR RIGHT TO POSSESSION OF THE PROPERTY; YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE; AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY.

**7. YOU MAY BE ELIGIBLE FOR AN EXTENSION OF THE TIME PRIOR TO TERMINATION UNDER MINNESOTA STATUTES SECTIONS 583.01 TO 583.12.**

Exhibit B: Signed Receipts for Certified Mailed to State of Minnesota and Internal Revenue Service
Exhibit C: Certified letter to State of Minnesota
Exhibit D: Response letter from Internal Revenue Service

NAME OF SELLER OR ATTORNEY:

GORDON H. HANSMEIER

Address: Attorney at Law, P.O. Box 1511

St. Cloud, MN 56302

Phone: 612-251-1055

By Gordon H Hansmeier

who is the person authorized by the Seller ____ to receive payments from you under this Notice.

MICROFILMED
Page 2 of 15

## AFFIDAVIT OF SERVICE

STATE OF MINNESOTA }
County of _____ } ss.

_____, being duly sworn, on oath says; that on _____, 19____, I served the foregoing notice upon _____, the person ____ to whom it is directed, by handing to and leaving with _____, a true and correct copy thereof.

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
Notary Public
_____ County, Minnesota.
My Commission Expires
_____, 19____.

_____

(Notary Stamp Or Seal)

## RETURN OF SERVICE BY SHERIFF

STATE OF MINNESOTA }
County of _____ } ss.

I hereby certify and return that on the ____ day of _____, 19____, I served the foregoing notice on _____, the person ____ to whom it is directed, by handing to and leaving with _____

_____

a true and correct copy thereof.

_____
Sheriff of _____ County, Minnesota

BY: _____
Deputy

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
Notary Public
_____ County, Minnesota.
My Commission Expires
_____, 19____.

_____

(Notary Stamp Or Seal)

## AFFIDAVIT OF SERVICE ON OCCUPANT

STATE OF MINNESOTA }
County of _____ } ss.

_____, being duly sworn on oath says; that on the ____ day of _____, 19____, I went upon the Property described in the foregoing notice for the purpose of serving the notice on the person in possession of the Property; that on that day and for _____ prior to that date the Property was and had been, _____

(State whether vacant or occupied, and if occupied, by whom)

(If occupied, show service and how made)

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
Notary Public
_____ County, Minnesota.
My Commission Expires
_____, 19____.

_____

(Notary Stamp Or Seal)

MICROFILMED
Page 3 of 15

## AFFIDAVIT OF FAILURE TO COMPLY WITH NOTICE

STATE OF MINNESOTA
County of STEARNS } ss.

Gordon H. Hansmeier being duly sworn, on oath says: that I am the person who signed the notice as Attorney for The City of Waite Park ; that more than 60 days have elapsed since the service of the notice on Watab, Inc., Credit America * , to whom it is directed; that Watab, Inc., Credit America Savings ** has/~~have~~ not complied with the terms of the notice; that the default set forth in the notice still continues; that no portion of the overdue payments of principal and interest under the contract described in the notice has been paid; nor attorneys' fees of $250.00 ; nor, if applicable, two percent of the default in the amount of $ 0 ; nor costs of service of $ 56.00 . Further, I make this affidavit for the purpose of terminating the contract and recording the notice, the proofs of the service of the contract, and the proof of failure to comply with the terms of the contract.

*Savings (Credit) Company, Landwehr Heavy Moving, Inc., PMC Sprinkler, Inc., State of Minnesota by its Commissioner of Revenue and Internal Revenue Service, by its District Director, Attn: Chief, Special Procedures Section

Subscribed and sworn to before me this 9th day of November, 1989.

Gordon H Hansmeier

Debora J. Surface
Notary Public
Stearns County, Minnesota.
My Commission Expires 1-28, 1993.

(Notary Stamp Or Seal)
DEBORA J. SURFACE
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Commission Expires Jan. 28, 1993

**(Credit) Company, Landwehr Heavy Moving, Inc., PMC Sprinkler, Inc., State of Minnesota by its Commissioner of Revenue and Internal Revenue Service, by its District Director, Attn: Chief, Special Procedures Section

This instrument was drafted by (Name and Address)
Gordon H. Hansmeier
DONOHUE RAJKOWSKI, LTD.
P.O. Box 1511
St. Cloud, MN 56302
(612) 251-1055

(CONTINUATION OF LEGAL DESCRIPTION FROM PAGE 1)

02 minutes 05 seconds East 355.81 feet; thence North 77 degrees 14 minutes 11 seconds East 174.12 feet; thence South 89 degrees 57 minutes 55 seconds East 693.17 feet; thence South 00 degrees 02 minutes 05 seconds West 367.67 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 21.07 feet to the point of beginning. Containing 7.62 acres. Subject to a roadway easement over and across the east 22.00 feet thereof, and subject to any easements of record.

TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southeast corner of said Section 8, thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the center line to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet to the intersection with the south line of the above described parcel and there terminating. The side lines of said easement shall be prolonged or shortened to intersect.

MICROFILMED
Page 4 of 15

# STATE TAX LIEN

Rec. Mar. 17, 1988 at 8:51 AM
Doc. No. 2839

Name: Watab, Inc. ID# 2648079-000

Address: 430 N. 7th Ave., Waite Park, MN 56387

| Qtr. | Yr. | Unpaid Balance |
|---|---|---|
| 1, 2 & 3 | 1987 | $5,447.56 |
| Lien Cost | | 20.00 |
| | | $5,467.56 |

EXHIBIT A
Page 1

MICROFILMED
Page 5 of 15

# STATE TAX LIEN

Rec. Aug. 25, 1988 at 9:26 AM
Doc. No. 2986

Name: Watab, Inc.
Richard Gnifkowski, individually SS #468-32-6597
Carole Gnifkowski, individually SS #471-30-4303

Address: 430 N. 7th Ave.
Waite Park, MN 56387

Residence: 6170 River Road Northeast
Sauk Rapids, MN 56379

| Tax Type | Period Ending | Assessment Date | Unpaid Balance |
|---|---|---|---|
| Minnesota WH Tax | 3, 6, 9, 12-87 | Feb. 25, 1988 | $27,074.58 |
| | 3/88 | June 14, 1988 | 8,953.45 |
| | | | $36,028.03 |

Interest Assessed to Aug. 7, 1988
Date Signed: Aug. 16, 1988

EXHIBIT A



MICROFILMED
Page 6 of 15

# FEDERAL TAX LIEN

Dated: May 5, 1989
Rec. May 16, 1989 at 9:40 AM
Doc. No. 3243
Signed properly

Name: Watab, Inc., a corp.

Residence: 430 N. 7th Ave. N.
Waite Park, MN 56387

| Kind of Tax | Tax Period Ended | Identifying No. | Date of Assessment | Last Day for Refiling | Unpaid Balance of Assessment |
|---|---|---|---|---|---|
| 941 | 03-31-88 | 41-1563549 | 07-18-88 | 08-17-94 | 33,942.77 |
| 941 | 06-30-88 | | 10-17-88 | 11-16-94 | 33,918.07 |
| 941 | 09-30-88 | | 12-26-88 | 01-25-95 | 44,035.88 |
| 940 | 12-31-87 | | 01-02-89 | 02-01-95 | 2,126.34 |
| 941 | 12-31-88 | | 03-06-89 | 04-05-95 | 17,052.84 |
| 940 | 12-31-88 | | 03-13-89 | 04-12-95 | 1,421.51 |
| | | | | | $132,497.41 |

EXHIBIT A



MICROFILMED
Page 7 of 15

# STATE TAX LIEN

Rec. July 27, 1989 at 9:47 A.M.
Doc. No. 3322

Name: Watab, Inc., Edward Gnifkowski, individually
SS #468-32-6597
Carole Gnifkowski, individually SS #471-30-4303

Address: 430 North 7th Avenue
Waite Park, MN 56387

| Tax Type | Period Ending | Assessment Date | Unpaid Balance |
|---|---|---|---|
| Minnesota WH Tax | March, 1989 | April 30, 1989 | $ 5,761.24 |
| | Sept. 1988 | January 20, 1989 | 6,174.42 |
| | June, 1988 | Sept. 14, 1988 | 8,898.46 |
| | | | $20,834.12 |

Interest assessed to July 23, 1989
Date Signed: July 26, 1989

EXHIBIT A



MICROFILMED
Page 8 of 13

## FEDERAL TAX LIEN

Dated Aug. 2, 1989
Rec. Aug. 17, 1989 at 9:43 AM
Signed properly - Doc. No. 3345

Name: Watab, Inc., a corp.

Residence: 430 7th Ave. N.
Waite Park, MN 56387

| Kind of Tax | Tax Period Ending | Identifying No. | Date of Assessment | Last Day for Refiling | Unpaid Balance of Assessment |
|---|---|---|---|---|---|
| 941 | 03-31-89 | 41-1562549 | 04-30-89 | 05-30-95 | $44,035.88 |
| 941 | 06-30-89 | 41-1562549 | 07-25-89 | 08-24-95 | 31,477.83 |
| | | | | | $75,513.71 |

EXHIBIT A



MICROFILMED
Page 9 of 15

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

| | |
|---|---|
| 3. Article Addressed to:<br>State of Minnesota<br>Commissioner of Revenue<br>State Office Building<br>St. Paul, MN 55155<br>STATE OF MINNESOTA | 4. Article Number<br>P 921 125 940<br>Type of Service:<br>☐ Registered ☐ Insured<br>☒ Certified ☐ COD<br>☐ Express Mail ☐ Return Receipt for Merchandise<br>Always obtain signature of addressee or agent and DATE DELIVERED. |
| 5. Signature — Address<br>X SEP 8 1989 | 8. Addressee's Address *(ONLY if requested and fee paid)* |
| 6. Signature — Agent<br>X DEPARTMENT OF REVENUE<br>ST. PAUL, MINN | |
| 7. Date of Delivery | |

PS Form 3811, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

12912

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

| | |
|---|---|
| 3. Article Addressed to:<br>Internal Revenue Service<br>Stop No. 5700<br>316 North Robert Street<br>St. Paul, MN 55101<br>Attn: Chief of Special Procedures Section | 4. Article Number<br>P 921 126 167<br>Type of Service:<br>☐ Registered ☐ Insured<br>☒ Certified ☐ COD<br>☐ Express Mail ☐ Return Receipt for Merchandise<br>Always obtain signature of addressee or agent and DATE DELIVERED. |
| 5. Signature — Address<br>X | 8. Addressee's Address *(ONLY if requested and fee paid)* |
| 6. Signature — Agent<br>X [signature] | |
| 7. Date of Delivery<br>Sept 22, 1989 | |

PS Form 3811, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

"EXHIBIT B"

MICROFILMED
Page 10 of 15

DONOHUE, RAJKOWSKI, HANSMEIER, GRUNKE & JOVANOVICH, LTD.
ATTORNEYS AT LAW
11 SEVENTH AVENUE NORTH
ST. CLOUD, MN 56303
TELEPHONE (612) 251-1055
FAX (612) 251-5800
TOLL FREE 800-445-0617

MAILING ADDRESS:
P.O. Box 1511
St. Cloud, MN 56302

MICHAEL H. DONOHUE
FRANK J. RAJKOWSKI
GORDON H. HANSMEIER*
FREDERICK L. GRUNKE
THOMAS G. JOVANOVICH
JOHN H. SCHERER
PAUL A. RAJKOWSKI*

JOHN O. HANSON
TIMOTHY W. NELSON*
PAUL D. KRUEGER
KEVIN F. GRAY
WILLIAM J. CASHMAN

September 21, 1989

St te of Minnesota
Commissioner of Revenue
State Office Building
St. Paul, MN 55155

RE: City of Waite Park/Watab, Inc.
Our File No. 12,912

Dear Commissioner:

Notice of Cancellation of Contract for Deed regarding the above matter was served upon you by U.S. mail on September 8, 1989. A duplicate copy of that notice is enclosed. Please review the additional information contained herein and provide acknowledgement of receipt and adequacy as to this notice for our file.

1. Name and address of person submitting notice: Donohue Rajkowski, Ltd., ATTN: Gordon Hansmeier, 11 Seventh Avenue North, P.O. Box 1511, St. Cloud, MN 56302.

2. Information regarding tax liens. Please refer to list attached to the original notice enclosed which reflects state and federal tax liens filed for record in the office of the Stearns County Recorder of Minnesota in IRS District No. 41 covering Minnesota.

3. Legal description of the real estate is also found on the attached notice.

4. The street address of the real estate is 430 Seventh Avenue North, Waite Park, MN 56387.

5. The cancellation becomes effective on the 61st day after the day of personal service of the cancellation was given. Personal service took place on the 7th day of September, 1989. The 61st day when cancellation becomes effective is the 7th day of November, 1989. On that date, all junior liens will be discharged from the property.

6. The amount of principal obligation is $670,000.

7. There is no interest owing or accruing on the principal obligation referred to in Item 6.

MICROFILMED
Page 11 of 15

8. Other expenses claimed are legal fees in the amount of $250, cost of service, $43.20, and any real estate taxes due and owing.

If you have any questions regarding this matter, please contact me at 251-1055.

Sincerely,

DONOHUE, RAJKOWSKI, HANSMEIER, GRUNKE & JOVANOVICH, LTD.

By
Gordon H. Hansmeier

GHH/mrg

Enclosure

l:\misc\am092189.dc1

- CERTIFIED MAIL - RETURN RECEIPT REQUESTED -

"EXHIBIT C"

MICROFILMED
Page 12 of 15

Internal Revenue Service

Department of the Treasury

District Director

316 N. Robert St., St. Paul, Minn. 55101

Donohue, Rajkowski, Hansmeier, Grunke & Jovanovich, Ltd.
11 Seventh Avenue North
St. Cloud, MN 56303

Person to Contact:
James L. Eliason
Telephone Number:
612-290-3381
Refer Reply to:
C:S:JLE:SPS:NS:9-16
Date:

OCT 0 2 1989

Attn: Mr. Hansmeier

SEP 2 9 1989

Re: Cancellation of Contract for Deed
Vendor: The City of Waite Park
Vendee: Watab, Inc.
Your File No. 12,912

Dear Mr. Hansmeier:

This is in response to your letter giving us notice of the above referred to Cancellation of Contract for Deed. Such notice was timely and adequate, and met the requirements of Section 7425 of the Internal Revenue Code.

Very truly yours,

C. D. Switzer
District Director of Internal Revenue

By:
Robert H. Resener
Chief, Special Procedures function

"EXHIBIT D"

MICROFILMED
Page 13 of 15

State of Minnesota, County of Stearns } ss.

I hereby certify and return that at the City of Waite Park County and State aforesaid, on the 7 day of September A. D., 19 89, I served the Cancellation of Contract for Deed hereto attached, upon Watab, Inc.,

a corporation, by then and there handing to and leaving with Carol Gnifkowski

a corporation, a true and correct copy of said Same

Dated this 7 day of September A. D., 19 89

COUNTY FEES: — Return $ 10.00
Mileage $ 3.20
Total $ 13.20

Charles grafft
Sheriff, Stearns County, Minn.
By Rick Hondl Deputy

#0527

State of Minnesota, County of Stearns } ss.

I hereby certify and return that at the City of St. Cloud County and State aforesaid, on the 7 day of September A. D., 19 89, I served the Cancellation of Contract for Deed hereto attached, upon Landwehr heavy Moving, Inc,

a corporation, by then and there handing to and leaving with Mark gregger

a corporation, a true and correct copy of said Same

Dated this 7 day of September A. D., 19 89

COUNTY FEES: — Return $ 10.00
Mileage $ 3.00
Total $ 13.00

Charles grafft
Sheriff, Stearns County, Minn.
By Rick Hondl Deputy

#0527

State of Minnesota, County of Stearns } ss.

I hereby certify and return that at the City of Waite Park County and State aforesaid, on the 7 day of September A. D., 19 89, I served the Cancellation of Contract for deed hereto attached, upon PMC Automatic Sprinkler, Inc.

a corporation, by then and there handing to and leaving with Cathy Goetz

a corporation, a true and correct copy of said Same

Dated this 7 day of September A. D., 19 89

COUNTY FEES: — Return $ 10.00
Mileage $ 3.20
Total $ 13.20

Charles grafft
Sheriff, Stearns County, Minn.
By Rick Hondl Deputy

#0527

State of Minnesota, County of Stearns } ss.

I hereby certify and return, that at the City of St Cloud County and State aforesaid, on the 7 day of September A.D., 19 89 I served the Cancellation of Contract for Deed hereto attached, upon the within named Credit America Savings(Credit)Company personally by then and there handing to and leaving with John Anderson a true and correct copy thereof.

Date this 7 day of September A.D., 19 89

COUNTY FEES: — Return $ 10.00
Mileage $ 3.00
Copy $
Total $ 13.00

Charles Grafft
Sheriff, Stearns County, Minn.
By Rick Hondl Deputy

#21-0015

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AFFIDAVIT OF MAILING

STATE OF MINNESOTA )
)SS
COUNTY OF STEARNS )

Vicki Strong, being first duly sworn, says that on the 21st day of September, 1989, she served the attached Notice of Cancellation of Contract for Deed

on the following named people by enclosing a true copy thereof, in an envelope, properly sealed, with postage prepaid, and depositing the same in the United States mail at the City of St. Cloud, in Stearns County, Minnesota.

State of Minnesota
Commissioner of Revenue
State Office Building
St. Paul, MN 55155

Internal Revenue Service
Stop No. 5700
316 North Robert Street
St. Paul, MN 55101

Vicki Strong
Vicki Strong

Subscribed and sworn to before me this 21st day of September, 1989

Debora J. Surface
Notary Public

DEBORA J. SURFACE
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Commission Expires Jan. 28, 1993

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0668002

# CONTRACT FOR DEED

Date: ~~October~~ November 14, 1989

THIS CONTRACT FOR DEED is made on the above date by the City of Waite Park, a municipal corporation under the laws of the State of Minnesota, Seller, and Waite Park Manufacturing, Inc., a corporation under the laws of the State of Minnesota, Purchaser.

Seller and Purchaser agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchaser hereby buys, real property in Stearns County, Minnesota, described as follows:

That part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the South line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 76.23 feet to the point of beginning of the parcel to be described; thence South 89 degrees 36 minutes 13 seconds West 749.64 feet; thence North 00 degrees 02 minutes 05 seconds East 355.81 feet; thence North 77 degrees 14 minutes 11 seconds East 174.12 feet; thence South 89 degrees 57 minutes 55 seconds East 693.17 feet; thence South 00 degrees 02 minutes 05 seconds West 367.67 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 21.07 feet to the point of beginning. Containing 7.62 acres. Subject to a roadway easement over and across the East 22.00 feet thereof, and subject to any easements of record.

TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southeast corner of said Section 8, thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the center line to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West

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139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet to the intersection with the South line of the above described parcel and there terminating. The side lines of said easement shall be prolonged or shortened to intersect.

AND TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, lying Westerly of the property herein sold in order to provide access from the West line of said property to Tenth Avenue North (formerly County Road 138). The specific boundaries of the easement area shall be determined by survey and by agreement of the parties prior to final payment by purchaser hereunder. Each party shall bear one-half of the cost of said survey,

AND TOGETHER WITH all rights to indemnification acquired by Seller from Burlington Northern Railroad Company under the terms of a certain deed dated August 20, 1986, filed in the office of the Stearns County Recorder on August 22, 1986, and recorded as Document No. 0602758 for costs relating to the clean-up of contaminants, pollutants, hazardous wastes and hazardous substances deposited in or located on the property herein sold.

together with all hereditaments and appurtenances belonging thereto.

Subject to the following additional easements:

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 499.18 feet to the point of beginning of said centerline; thence North 89 degrees 54 minutes 36 seconds East 176.04 feet; thence South 83 degrees 32 minutes 08 seconds East 109.89 feet; thence North 89 degrees 41 minutes 43 seconds East 577.72 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of



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the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 523.00 feet to the point of beginning of said centerline; thence North 89 degrees 13 minutes 17 seconds East 108.82 feet; thence South 49 degrees 38 minutes 54 seconds East 155.78 feet; thence South 88 degrees 35 minutes 46 seconds East 305.00 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 523.00 feet to the point of beginning; thence North 89 degrees 13 minutes 17 seconds East 108.82 feet; thence North 76 degrees 34 minutes 11 seconds East 170.55 feet; thence North 88 degrees 34 minutes 02 seconds East 588.49 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of watermains, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 554.72 feet to the point of beginning of said centerline; thence North 89 degrees 10 minutes 51 seconds East 245.68 feet; thence South 04 degrees 55 minutes West 143.44 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of watermains, over, under and across the South Half of the



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Page 3 of 11

Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The center line of said 16 foot easement is described as follows: Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 741.51 feet to the point of beginning of said center line; thence North 18 degrees 30 minutes 05 seconds East 32.76 feet; thence North 66 degrees 12 minutes 46 seconds East 112.23 feet; thence North 74 degrees 58 minutes 46 seconds East 126.92 feet; thence North 88 degrees 31 minutes 10 seconds East 374.75 feet; thence South 03 degrees 51 minutes 17 seconds East 196.33 feet; thence South 89 degrees 00 minutes 13 seconds East 239.45 feet and there terminating.

2. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchaser's prompt and full performance of this contract, Seller shall:

(a) Execute, acknowledge and deliver to Purchaser a Quit Claim Deed in recordable form, conveying their interest in the Property to Purchaser.

(b) Seller agrees that during the term of this Contract for Deed it will not encumber, transfer, mortgage or in any way will it cause any defect in title to the property being sold, provided the buyer is in compliance with its obligations under the Contract for Deed.

3. PURCHASE PRICE. Purchaser shall pay to Seller at Waite Park, Minnesota, the sum of $600,000 as and for the purchase price for the Property, payable as follows: The sum of $300,000 by assuming and agreeing to pay according to its terms and conditions that certain first mortgage of record held by CreditAmerica Savings Company and the balance of $300,000.00 in one final balloon payment due and payable on October 1, 1992, less any credit due Purchaser as hereinafter provided. Interest shall accrue from the date of this contract on the deferred principal balance from time to time at the rate of 8 percent per annum, due and payable in monthly installments commencing December ~~November~~ 1, 1989, and continuing on the first day of each consecutive month thereafter until the deferred principal balance, together with all accrued interest and less any credits due Purchaser, has been fully paid. Each monthly installment shall be applied first in payment of interest then due and the balance, if any, in payment of principal.



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4. PREPAYMENT. Purchaser shall have the right to prepay this contract in any amount at any time without penalty except interest due to date of prepayment.

5. CREDITS DUE PURCHASER. For the $300,000 due October 1, 1992, Purchaser shall receive a $9,000.00 credit against principal for every job created by Purchaser within the City of Waite Park. Said credit shall be determined by multiplying $9,000.00 times the average number of full-time employees employed by Purchaser within the City during the one year period immediately preceding final payment by Purchaser hereunder. In the event Purchaser has not secured enough full-time employees to completely reduce the principal balance of this contract at the time of final payment, Purchaser shall have the right to pay cash equal to the remaining principal balance in order to satisfy this contract.

6. REAL ESTATE TAXES AND ASSESSMENTS. Purchaser shall pay all past due taxes, penalty and interest. Purchaser shall also pay, before penalty accrues, all current and future real estate taxes and assessments against this property.

7. PROPERTY INSURANCE.

(a) INSURED RISKS AND AMOUNT. Purchaser shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of their full insurable value.

(b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchaser or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.

(c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchaser shall promptly give notice of such damage to Seller and the insurance company.

8. DAMAGE TO THE PROPERTY.

(a) APPLICATION OF INSURANCE PROCEEDS. If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to



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be paid, unless Purchaser makes a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchaser.

(b) PURCHASER'S ELECTION TO REBUILD. If Purchaser is not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchaser may elect to have that portion of such insurance proceeds necessary to repair, replace and restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchaser. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchaser, Seller and Purchaser shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchaser shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the repair work Purchaser shall at all times be responsible to pay the full Cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchaser into such escrow before the commencement of the repair work. Purchaser shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchaser within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchaser under this contract in accordance with paragraph 8(a) above.



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9. INJURY OR DAMAGE OCCURRING ON THE PROPERTY.

(a) LIABILITY. Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchaser shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.

(b) LIABILITY INSURANCE. Purchaser shall, at Purchaser's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.

10. INSURANCE, GENERALLY. The insurance which Purchaser is required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchaser at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchaser shall deliver to Seller a duplicate original and certificate of such insurance policy or policies.

11. CONDEMNATION. If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof, shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to principal. The balance, if any, shall be the property of Purchaser.

12. WASTE, REPAIR AND LIENS. Purchaser shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchaser commit or allow waste of the Property. Purchaser shall maintain the Property in good condition and repair. Purchaser shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the property. Purchaser shall pay to the Seller all amounts, costs



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and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.

13. DEED TAX. Seller shall, upon Purchaser's full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchaser.

14. NOTICE OF ASSIGNMENT. If either Seller or Purchaser assigns their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.

15. PROTECTION OF INTERESTS. If Purchaser fails to pay any sum of money required under the terms of this contract or fails to perform any of its obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 3 of this contract, as an additional amount due Seller under this contract. If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the property which is not expressly assumed by Purchaser, and provided Purchaser is not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchaser may, at Purchaser's option, pay any such delinquent amounts and deduct the amounts paid from the installments next coming due under this contract.

16. POSSESSION. Purchaser shall be entitled to possession as of the date of this contract.

17. DEFAULT. The time of performance by Purchaser of the terms of this contract is an essential part of the contract. Should Purchaser fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract cancelled and terminated by notice to Purchaser in accord with applicable law. All right, title and interest acquired under this contract by Purchaser shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchaser pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchaser shall, upon demand, surrender possession of the Property to Seller, but Purchaser shall be entitled to possession of the Property until the expiration of



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such period. The cancellation and termination of this contract shall be the sole remedy available to Seller in the event of default by Purchaser and Seller hereby waives its right to bring an action for specific performance of this contract.

18. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

19. HEADINGS. Headings of the paragraphs of this contract are for convenience only and do not define, limit or construe the contents of such paragraphs.

20. REFUND DUE PURCHASER. In the event Purchaser prepays the contract in full and in cash prior to the October 1, 1992, final balloon. Seller shall refund to Purchaser on October 1, 1992, an amount equal to the credit Purchaser would have received under paragraph 5 above had no prepayments been made, less any credits received by Purchaser under said paragraph 5 at the time of actual prepayment. Said refund shall in no event exceed the sum of all cash payments by Purchaser to Seller applied towards principal hereunder. Purchaser's right to said refund shall survive the final closing of this transaction. In no event shall this refund apply to interest payments made by Purchaser to Seller.

21. DUE ON SALE. Purchaser shall not sell, assign, transfer or encumber its interest in this contract, or any part thereof, without the prior written consent of Seller, which consent shall not be unreasonably withheld. Any transfer in violation of this provision shall be cause for immediate acceleration of the then remaining contract balance.

22. CROSS-DEFAULTS. The parties have executed a Contract for Deed of even date relating to land north of and adjoining the property herein sold. Default under the terms of said Contract for Deed shall constitute a default under the terms of this Contract for Deed.

23. Buyer agrees to fully cooperate in platting this property at a later date from the property's current metes and bounds description.

24. Buyer acknowledges that the existing electrical transformer providing service to this property is going to be removed and new switching equipment will be needed. Buyer agrees to provide this electrical switching equipment, at its expense, when requested.

25. Purchaser shall pay all of Seller's attorney's fees and engineering fees incurred as a result of this proposed sale,



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including, but not limited to cancellation of Watab's interest in the Contract for Deed with the City. The maximum amount payable shall be ~~$1,000~~ $2500

SELLER:

City of Waite Park, a municipal corporation

By _____
Its Mayor

By _____
Its _____

PURCHASER:

Waite Park Manufacturing, Inc., a Minnesota corporation

By _____
Its President

By _____
Its ASS'T TREASURER

STATE OF MINNESOTA)
)SS
COUNTY OF STEARNS )

KENNETH E. DICKINSON
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 20, 1991

The foregoing instrument was acknowledged before me this 14 day of NOVEMBER, 1989, by ALCUIN RINGSMUTH and JEFFREY BAIRD the MAYOR and CITY CLERK/TREASURER respectively, of City of Waite Park, a municipal corporation under the laws of the State of Minnesota, on behalf of said municipal corporation.

_____
Notary Public

STATE OF MINNESOTA)
)SS
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 10TH day of NOVEMBER, 1989, by JEROME J. LAGUE and PATRICK RILEY the PRESIDENT and ASS'T TREASURER respectively, of Waite Park Manufacturing, Inc., a corporation under the laws of the State of Minnesota, on behalf of said corporation.

PAULINE DURAY
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 26, 1994

_____
Notary Public



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Tax statements for the real property described in this instrument should be sent to:

Waite Park Manufacturing, Inc. c/o L.E.I., Inc.
3839 County Road 116
Hamel, MN 55340

THIS INSTRUMENT WAS DRAFTED BY:

Gordon H. Hansmeier
DONOHUE RAJKOWSKI, LTD.
11 Seventh Avenue North
P.O. Box 1511
St. Cloud, MN 56302
Telephone: (612) 251-1055

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASER'S INTEREST IN THE PROPERTY AND MAY RESULT IN A PENALTY UNDER MINNESOTA LAW.

1:\waite\ac102589.222

CERTIFICATE OF REAL ESTATE VALUE FILED THIS
DEC - 6 1989

NO DELINQUENT TAXES AND TRANSFER ENTERED
DATE DEC - 6 1989
AUDITOR
DEPUTY

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1989 DEC -6 PM 3:35
AS DOC. # 0668002
PATRICIA M. OVERMAN
COUNTY RECORDER
BY



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Return to
Zapp Abstract

0669546

# State of DELAWARE

## Office of SECRETARY OF STATE

I, Michael Harkins, Secretary of State of the State of Delaware, do hereby certify that the attached is a true and correct copy of Certificate of Amendment filed in this office on June 2, 1988

Michael Harkins, Secretary of State

BY: DMC Davis

DATE: October 12, 1988

Form 130

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Page 1 of 3

728154086

FILED

JUN 2 1988

Certificate of Amendment

of the

Certificate of Incorporation

BBC Brown Boveri, Inc.

BBC Brown Boveri, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation") DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of the Corporation duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware a resolution by unanimous written consent pursuant to Section 141 of the General Corporation Law of the State of Delaware as follows:

RESOLVED: That the Board of Directors propose to the stockholders of the Corporation that the Certificate of Incorporation of this Corporation be amended by changing Article FIRST thereof so that, as amended, said Article shall be and read as follows:

"FIRST: The name of the corporation is ABB POWER DISTRIBUTION INC. (hereinafter called the 'Corporation').", and that the Board finds it advisable to so amend the

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Page 2 of 3

Certificate of Incorporation and that a meeting of the stockholders of the Corporation entitled to vote in respect thereof be called to consider adoption of the proposed amendment.

SECOND: That said amendment was duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware by the stockholders of the Corporation by unanimous written consent in lieu of a meeting in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this Corporation has caused this certificate to be signed by Albert F. Kaiser, its President, and attested by John R. Attanasio, its Secretary, this 15th day of February, 1988.

Albert F. Kaiser
President

ATTEST:

By: John R. Attanasio
Secretary

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1990 JAN -3 PM 3:14

AS DOC. # 0669546

PATRICIA M. OVERMAN
COUNTY RECORDER

BY P. Overman DEPUTY

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Form No. 9-M—WARRANTY DEED Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis

Corporation or Partnership to
Corporation or Partnership

0669547

No delinquent taxes and transfer entered; Certificate of Real Estate Value (✓) filed ( ) not required
Certificate of Real Estate Value No. _____
JAN - 3 1990, 19____

[signature]
County Auditor

by Nancy J. Heinzen
Deputy

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1990 JAN -3 PM 3:14

AS DOC # 0669547

PATRICIA M. OVERMAN
COUNTY RECORDER

BY [signature] DEPUTY

(reserved for recording data)

STATE DEED TAX DUE HEREON: $ 9,322.50

Date: December 28, 19 89

FOR VALUABLE CONSIDERATION, ABB Power Distribution Inc., a corporation under the laws of Delaware, Grantor, hereby conveys and warrants to M E International, Grantee, a general partnership under the laws of Minnesota, real property in Stearns County, Minnesota, described as follows:

See Exhibit A attached hereto.

DEED TAX # 2010390 7660
DEED TAX 134 9322.50
01/03/90 2 0 7660
CLRK 4 CSH TOS

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

See Exhibit B attached hereto

Affix Deed Tax Stamp Here

ABB POWER DISTRIBUTION INC.

By [signature]
Its Executive Vice President

~~By~~ _____
~~Its~~ _____

STATE OF MINNESOTA
COUNTY OF Hennepin } ss.

The foregoing was acknowledged before me this 14th day of December, 19 89, by Johann Wagner ~~and~~ _____, the Executive Vice President ~~and~~ _____ of ABB Power Distribution Inc., a corporation under the laws of Delaware, on behalf of the corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

LORI L. HOWE
NOTARY PUBLIC – MINNESOTA
HENNEPIN COUNTY
My Commission Exp. July 23, 1991

[signature]
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

M E International
3901 University Ave. N.E.
Minneapolis, MN 55421

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

FAEGRE & BENSON (RLR-LH)
2200 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402-3901
(612) 336-3000

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Page 1 of 3

EXHIBIT A

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said Southeast Quarter (SE 1/4) of Section Eight (8) as measured at right angles thereto; thence North and parallel with said West line of said Southeast Quarter (SE 1/4) to its intersection with the North line of said Southeast Quarter (SE 1/4) of Section Eight (8) and there terminating.

MICROFILMED
Page 2 of 3

EXHIBIT B

1. The lien of all unpaid installments of real estate taxes due and payable in 1990 and thereafter.

2. Rights of ABB Power Distribution Inc., as tenant.

3. Building, zoning and subdivision laws and regulations, and state and federal laws and regulations.

4. Reservations of minerals or mineral rights by the State of Minnesota, if any.

5. Utility easement given to the City of St. Cloud by document dated November 7, 1974, and filed November 27, 1974, in Book 61 of A & A, page 487, Document No. 450372, in the office of the County Recorder, Stearns County, Minnesota.

6. The terms and conditions of the Protective Covenants dated May 12, 1961, and filed May 15, 1961, in Book 68 of Miscellaneous, page 623, in the office of the County Recorder, Stearns County, Minnesota.

7. The terms and conditions of the Agreement dated July 23, 1970, and filed November 10, 1970, in Book 52 of A & A, page 245, in the office of the County Recorder, Stearns County, Minnesota.

8. The terms and conditions of that certain Access Agreement between ABB Power Distribution Inc. and M E International of even date herewith.

9. The terms and conditions of that certain Affidavit by Johann Wagner, employee of ABB Power Distribution Inc. of even date herewith.

10. Overhead power line along the Southerly side of above described land as shown upon the Survey dated July 28, 1989 and revised December 4, 1989 made by Otto Associates Land Surveyors.

1073x

MICROFILMED
Page 3 of 3

0669548

Access Agreement

This Access Agreement is made and entered into this 28th day of December, 1989, by and between M E International ("Owners"), and ABB Power Distribution Inc. ("ABB").

Recitals

A. Owners own certain real property located in the City of St. Cloud, Minnesota, the street address of which is 711 Anderson Avenue, which is legally described on the attached Exhibit A. Said premises and any and all structures and improvements thereon will hereinafter be referred to as "The Property."

B. Prior to 1978, a manufacturing facility was operated on The Property which manufactured gas turbines, electric generators and related equipment. On or about January 1, 1978, Brown Boveri Turbomachinery, Inc. ("BBT") took possession of The Property and operated it until approximately 1983. During that period, BBT operated the plant and manufactured gas and steam turbines and electrical generators and related equipment. The manufacturing process of BBT and the prior owners used solvents and generated waste solvents.

C. The City of Waite Park, Minnesota owns and operates certain municipal water wells that are located a short distance from The Property. In January, 1985, said municipal wells were allegedly discovered to be contaminated. The wells were not used from or about February 4, 1985 until February 22, 1988.

MICROFILMED
Page 1 of 8

D. On October 22, 1985, the Minnesota Pollution Control Agency ("MPCA") issued a request for response action to the Burlington Northern Railroad Company, owner and operator of an adjacent site, pursuant to Minn. Stat. Chapter 115B.

E. On March 22, 1986, the MPCA issued a request for response action ("RFRA") to BBT and others. The MPCA alleged that, as a result the dumping of waste chlorinated solvents on The Property, the soil and ground water of The Property and the Waite Park municipal wells were contaminated. The RFRA required a remedial investigation/feasibility study and remedial action to determine and correct the full extent of soil and ground water contamination on The Property and to provide Waite Park with an uncontaminated municipal water supply.

F. ABB as successor in interest to BBT, has undertaken certain activities in compliance with the RFRA, and intends to respond further to the RFRA.

G. The purpose of this Access Agreement is to grant ABB access to The Property, under the terms and conditions contained herein, in order to permit ABB to respond to the RFRA.

H. In entering into this Access Agreement, Owners and ABB, and each of them, expressly deny liability under CERCLA, ERLA or any other law, to each other or to any third person (including the U.S. Environmental Protection Agency ("EPA") and MPCA).

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, and for other good and



MICROFILMED
Page 2 of 8

valuable consideration the receipt and sufficiency of which are hereby acknowledged, OWNERS and ABB HEREBY AGREE AS FOLLOWS:

1. Owners, and each of them, hereby give their consent and authorize (a) ABB; (b) the MPCA; and (c) the authorized employees, contractors or agents of the MPCA and ABB (collectively referred to as "authorized persons"), to enter The Property for the purpose of responding to the RFRA, including, but not limited to, (1) testing, transporting, sealing, treating or disposing of, and performing all acts incidental to testing, transporting, sealing, treating or disposing of, any waste materials located at The Property; (2) making any modifications to The Property which are necessary in order to safely and efficiently respond to the RFRA; (3) using or installing at ABB's expense necessary utility hook-ups including, but not limited to, telephone and electric services; (4) inspecting The Property and reviewing the progress of the work; and (5) preparing for and performing soil and groundwater investigations, including but not limited to installation of treatment systems, at and in the vicinity of The Property. This Access Agreement is entered into without prejudice to the rights of the MPCA and ABB to seek amendments to this Access Agreement or to seek any additional access for any other lawful purpose.

2. Owners shall be liable to ABB for all damages and repair costs incurred as a result of damage to monitoring wells (including structures appurtenant thereto), and all other



MICROFILMED
Page 3 of 8

facilities, improvements, fixtures and other personal property installed in, under or upon, and work performed upon, The Property pursuant to the RFRA, whether caused (a) by the conduct of any business, (b) by the demolition of existing buildings, (c) by the construction of new buildings, or (d) by the action or inaction of any person, firm or entity having a right of ownership or possession of The Property or any portion thereof; provided, however, that Owners shall not be liable for such damage caused by ABB, its employees or agents.

3. Owners hereby waive and release any and all claims which may arise against ABB or its employees and agents as a result of any and all activities associated with the RFRA, other than claims for personal injury or property damage caused by the negligence of ABB or its employees and agents. In particular, but without limiting the generality of the foregoing, Owners agree to waive and release any claim that the actions of ABB or its employees and agents in responding to the RFRA interfered with or in any way damaged Owners, or the business or business opportunities of Owners.

4. ABB agrees that all contractors and subcontractors performing any activities pursuant to this Access Agreement will be insured pursuant to a policy or policies of comprehensive or general liability insurance with minimum limits of $300,000 per occurrence.



MICROFILMED
Page 4 of 8

5. Except in an emergency, ABB agrees to give Owners reasonable notice of when ABB or other authorized persons will require access to The Property. ABB or other authorized persons shall enter at reasonable times and shall use reasonable efforts to minimize any material disruption or interruption of the conduct of Owners' business. Owners agree not to obstruct or interfere with any work or other activity undertaken pursuant to the RFRA. ABB shall, after completion of any action taken on The Property, in a reasonable, cost-effective manner, restore The Property to a condition functionally similar to that which existed prior to such action.

6. Owners warrant and represent that they are the sole fee owners of The Property and that to the best of their knowledge the consent of no other person is required to accomplish the purposes of this Access Agreement. Owners agree not to sell, convey or otherwise grant to any person any interest in The Property for such period of time as this Access Agreement remains in effect, unless such sale, conveyance or grant of interest is made subject to this Access Agreement.

7. This Access Agreement shall become effective on the date the last necessary signature is affixed hereto and shall remain in effect until written notice is sent to Owners by ABB that the RFRA has been completely implemented and that all related activities have been completed.



MICROFILMED
Page 5 of 8

8. Owners hereby acknowledge that this Access Agreement is entered into voluntarily and without coercion. Owners represent that they have full authority to enter into this Access Agreement and that no other signatures are necessary to bind all those having an interest in The Property.

9. This Access Agreement is binding upon and shall inure to the benefit of the heirs, successors, and assigns of Owners and ABB, and each of them.

IN WITNESS WHEREOF, the parties have executed this Access Agreement on and as of the date first above written.

DATED: December 28, 1989.

ABB POWER DISTRIBUTION INC.

By _____
Its Executive Vice President

M E INTERNATIONAL

By _____
Its President



MICROFILMED
Page 6 of 8

STATE OF Minnesota )
) SS.
COUNTY OF Hennepin )

On this 14th day of December, 1989, before me a Notary Public within and for said county, personally appeared Johann Wagner, the Exec. Vice President of ABB Power Distribution Inc., to me known to be the person described in and who executed the foregoing instrument and acknowledged that he read the same and executed it as his free act and deed.

Linda L Karkoc
Notary Public

LINDA L. KARKOC
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Mar. 25, 1992

STATE OF Minnesota )
) SS.
COUNTY OF Hennepin )

On this 14th day of December, 1989, before me a Notary Public within and for said county, personally appeared John Vertel, the President of M E International, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he read the same and executed it as his free act and deed.

Ellen W. McVeigh
Notary Public

ELLEN W. McVEIGH
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 10, 1991

Drafted By:

Faegre & Benson (RLR)
2200 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402

0090z



MICROFILMED
Page 7 of 8

EXHIBIT A

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said Southeast Quarter (SE 1/4) of Section Eight (8) as measured at right angles thereto; thence North and parallel with said West line of said Southeast Quarter (SE 1/4) to its intersection with the North line of said Southeast Quarter (SE 1/4) of Section Eight (8) and there terminating.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

1990 JAN -3 PM 3:14
AS DOC. # 0669548
PATRICIA M. OVERMAN
COUNTY RECORDER
BY A. Overman DEPUTY

MICROFILMED
Page 8 of 8

0669550

AFFIDAVIT

STATE OF Minnesota )
) ss.
COUNTY OF Hennepin )

Johann Wagner, being first duly sworn, deposes and says:

1. I am an employee of ABB Power Distribution Inc.

2. I am making this affidavit based on information available to me and the belief that such information is accurate; however, I do not have firsthand knowledge of all the matters contained in this affidavit.

3. This affidavit is made pursuant to Minn. Stat. § 115B.16, Subd. 2.

4. ABB Power Distribution Inc. owns real estate in Stearns County, Minnesota, described in Exhibit A attached to this affidavit. Said real estate is referred to herein as "The Land".

5. The Land has allegedly been used to dispose of hazardous waste, and The Land is contaminated by release of a hazardous substance, according to assertions made by the Minnesota Pollution Control Agency.

6. The Land was used as the site of a plant consisting of a manufacturing facility which manufactured gas and steam turbines, electric generators and related equipment. The Land was used for this purpose from prior to 1975 until approximately 1983. The manufacturing processes occurring on

MICROFILMED
Page 1 of 3

The Land used solvents and generated waste solvents, which were allegedly spilled, dumped or otherwise released onto and into The Land. Such wastes would be characterized as hazardous wastes, but it has not been ascertained to what extent such wastes may have been released onto or into The Land.

7. Minn. Stat. § 115B.16, Subd. 2(c) purports to require a disclosure that the use of The Land or some portion of it may be restricted as provided in Minn. Stat. § 115B.16, Subd. 1, which applies to "disposal facilities".

FURTHER YOUR AFFIANT SAITH NOT.

Dated: December 28, 1989

Johann Wagner

Subscribed and sworn to before me
this 14th day of December, 1989.

Notary Public

LINDA L. KARKOC
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Mar. 25, 1992

Drafted By:

Faegre & Benson (RLR)
2200 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402

1040x



MICROFILMED
Page 2 of 3

EXHIBIT A

That part of the Southeast Quarter (SE 1/4), of Section Numbered Eight (8), in Township Numbered One Hundred Twenty-four (124) North, of Range Numbered Twenty-eight (28) West, lying Westerly of First Addition to St. Cloud Industrial Park, and Northerly of the North right-of-way line of the Great Northern Railway Company, and Easterly of the following described line: Beginning at a point on said North right-of-way line of the Great Northern Railway Company, said point being 723 feet East of the West line of said Southeast Quarter (SE 1/4) of Section Eight (8) as measured at right angles thereto; thence North and parallel with said West line of said Southeast Quarter (SE 1/4) to its intersection with the North line of said Southeast Quarter (SE 1/4) of Section Eight (8) and there terminating.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

1990 JAN -3 PM 3:14
0669550

AS DOC. #
PATRICIA M. OVERMAN
COUNTY RECORDER

BY A. Overman DEPUTY

✓ return
Stearns Co. Abstract

MICROFILMED
Page 3 of 3

An Equal Opportunity Employer

Phone: (612) 296-2428

0670380

STATE OF MINNESOTA
MUNICIPAL BOARD
165 Metro Square Building
121 East Seventh Place
St. Paul, Minnesota 55101-2142

CERTIFICATION

I, Patricia D. Lundy, Assistant Director of the Minnesota Municipal Board, hereby certify that the attached copy of the Order is a true and correct copy of the original on file in the Minnesota Municipal Board Office.

Dated this 12th day of January, 1990.

Patricia D. Lundy
Assistant Director

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

1990 JAN 18 AM 9:06

AS DOC. # 0670380
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

MICROFILMED
Page 1 of 3

OA-202-1 St. Cloud & Waite Park

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

| | |
|---|---|
| John W. Carey | Chair |
| Kenneth F. Sette | Vice Chair |
| Shirley J. Mihelich | Commissioner |

| | |
|---|---|
| IN THE MATTER OF THE ORDERLY ANNEXATION AGREEMENT BETWEEN THE CITIES OF ST. CLOUD AND WAITE PARK AND THE TOWN OF ST. CLOUD PURSUANT TO MINNESOTA STATUTES 414.0325 | ORDER |

WHEREAS, a joint resolution for orderly annexation was adopted by the City of St. Cloud, the Town of St. Cloud and the City of Waite Park and duly accepted by the Minnesota Municipal Board; and

WHEREAS, said resolution received from the Cities of St. Cloud and Waite Park and the Town of St. Cloud indicates their desire that certain property be annexed to the Cities of St. Cloud and Waite Park pursuant to M.S. 414.0325, Subdivision 1; and

WHEREAS, M.S. 414.0325 states that in certain circumstances the Minnesota Municipal Board may review and comment, but shall within 30 days order the annexation of land pursuant to said subdivision; and

WHEREAS, on December 11, 1989, the Minnesota Municipal Board has reviewed and accepted the resolution for orderly annexation;

IT IS HEREBY ORDERED: That the following described property is hereby annexed to the City of St. Cloud, Minnesota, the same as if it had originally been made a part thereof:

Those portions of Township 124 North, Range 28 West, Stearns County, Minnesota, described as follows:

All that part of the SE 1/4 of Section 9 lying easterly of the westerly right-of-way line of State Trunk Highway 15 and not presently within the corporate limits of the City of St. Cloud. and

MICROFILMED
Page 2 of 2

together with:

> All that part of the South 1/2 of Section 9 and the SE 1/4 of Section 8 lying westerly of the westerly right-of-way line of State Trunk Highway 15, northerly of the centerline of the Burlington Northern Railroad right-of-way, and not presently within the corporate limits of the City of St. Cloud.

IT IS HEREBY ORDERED: That the following described property is hereby annexed to the City of Waite Park, Minnesota, the same as if it had originally been made a part thereof:

Those portions of Township 124, Range 28 West, Stearns County, Minnesota, described as follows:

> All that part of the South 1/2 of Section 9 and the SE 1/4 of Section 8, lying westerly of the westerly right-of-way line of State Trunk Highway 15, southerly of the centerline of the Burlington Northern Railroad right-of-way, and not presently within the corporate limits of the City of Waite Park.

IT IS FURTHER ORDERED: That the effective date of this order is December 11, 1989.

Dated this 18th day of December, 1989.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, MN 55101

Patricia D. Lundy

Patricia D. Lundy
Assistant Director

FILED
JAN 18 1990
HENRY J. KOHORST
COUNTY AUDITOR

STATE OF MINNESOTA MUNICIPAL BOARD OFFICIAL SEAL

Return ✓ City of Waite Park
Box 339
Waite Park MN 56387

MICROFILMED
Page 3 of 3

0670380

0685222

QUIT CLAIM DEED

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

1990 OCT 19 AM 10: 13

AS DOC # 0685222

PATRICIA M. OVERMAN
COUNTY RECORDER

BY [signature] DEPUTY

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ✓ ) filed ( ) not required Certificate of Real Estate Value No. _____, 19___

OCT 19 1990

[signature] by Deny Kron Deputy Aud.
County Auditor

STATE DEED TAX. $33.00

Date: APRIL 10, 1990

FOR VALUABLE CONSIDERATION, the City of Waite Park, a municipal corporation under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to Theisen Design and Manufacturing, Inc., a corporation under the laws of the State of Minnesota, real property in Stearns County, Minnesota, described as follows:

DEED TAX # 2101990 4108
DEED TAX 134 33.00
10/19/90 2 0 4108
CLRK 4 CSH TOS

That part of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said SE¼ SE¼; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the south line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet to the point of beginning of the tract to be described; thence continue North 90 degrees 00 minutes 00 seconds West a distance of 298.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 186.40 feet; thence North 89 degrees 36

MICROFILMED
Page 1 of 3

minutes 13 seconds East a distance of 298.00 feet; thence South 00 degrees 00 minutes and 00 seconds East a distance of 188.46 feet to the point of beginning. Containing 1.28 acres and subject to any easements of record.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the SE¼ of Section 8, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Said roadway easement being a strip of land 40 feet in width lying west of and directly adjacent to a line drawn north at right angles, a distance of 349.40 feet, from a point on the south line of said SE¼ and distant 1289.73 feet west of the southeast corner of said SE¼.

together with all hereditaments and appurtenances belonging thereto.

Theisen Manufacturing and Design, Inc., party of the second part, agrees to hold the City of Waite Park harmless and indemnify it from any costs and claims arising or involving costs of cleaning up contaminants, pollutants, hazardous wastes or hazardous substances located on the property granted herein.

The City of Waite Park agrees to assign any and all rights it may have to Theisen Design and Manufacturing, Inc., under its agreement with Burlington Northern, for indemnification for the costs of clean-up as it applies to this parcel.

The obligations of the parties shall be binding on all of their heirs and assigns.



MICROFILMED
Page 2 of 3

0685223

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

MORTGAGE REGISTRATION TAX 220 80

CERTIFIED, FILED AND/OR RECORDED ON

1990 OCT 19 AM 10: 13

AS Doc # 0685223
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

H J Kohorst
STEARNS COUNTY AUDITOR

Deny Kron
DEPUTY AUDITOR

[Space Above This Line For Recording Data]

# MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on APRIL 10, 19 90. The mortgagor is THEISEN DESIGN AND MANUFACTURING, INC. a corporation ("Borrower"). This Security Instrument is given to PLAZA PARK BANK, which is organized and existing under the laws of STATE OF MINNESOTA, and whose address is WAITE PARK, MN 56387 ("Lender"). Borrower owes Lender the principal sum of NINETY SIX THOUSAND AND NO/100ths Dollars (U.S. $ 96,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JULY 10, 1993 and for interest at the yearly rate of 12.00% percent. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in STEARNS County, Minnesota:

Commencing at the southeast corner of said SE¼ SE¼; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the south line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet to the point of beginning of the tract to be described; thence continue North 90 degrees 00 minutes 00 seconds West a distance of 298.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 186.40 feet; thence North 89 degrees 36 minutes 13 seconds East a distance of 298.00 feet; thence South 00 degrees 00 minutes and 00 seconds East a distance of 188.46 feet to the point of beginning. Containing 1.28 acres and subject to any easements of record.

TOGETHER WITH a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the SE¼ of Section 8, Township 124 North, Range 28 West in the City of Waite Park, Stearns County, Minnesota described as follows:

Said roadway easement being a strip of land 40 feet in width lying west of and directly adjacent to a line drawn north at right angles, a distance of 349.40 feet, from a point on the south line of said SE¼ and distant 1289.73 feet west of the southeast corner of said SE¼.

MORTGAGE # 2101990 4107
MGE REGIS TX 132 220.80
10/19/90 2 0 4107
CLRK + CSH TDS

which has the address of 300 BLOCK 6TH AVENUE NORTH [Street], WAITE PARK [City], Minnesota 56387 [Zip Code] ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Form No. 32-M—QUIT CLAIM DEED Minnesota Uniform Conveyancing Blanks (1978) OSWALD PUBLISHING CO., NEW ULM, MINN.

Corporation or Partnership to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ✓ ) filed ( ) not required
Certificate of Real Estate Value No. _____, 19__

DEC 2 8 1990 H J Kohorst
County Auditor

by Deny Kron
Deputy

0688821

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND RECORDED ON

1990 DEC 28 PM 12:29

AS DOC # 0688821
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

(reserved for recording data)

STATE DEED TAX DUE HEREON: $ 33.00

Date: December 18, 19 90

FOR VALUABLE CONSIDERATION, City of Waite Park, a municipal corporation under the laws of Minnesota, Grantor, hereby conveys and quitclaims to Michael M. Murphy and Delores A. Murphy, husband and wife, Grantees as joint tenants, real property in Stearns County, Minnesota, described as follows:

Tract 1

That part of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said SE 1/4 SE 1/4, thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the south line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the point of beginning of the Tract to be described; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 188.46 feet; thence North 89 degrees 36 minutes 13 seconds East a distance of 207.69 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 10.23 feet; thence South 89 degrees 57 minutes 55 seconds East a distance of 91.06 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 179.61 feet

"CONTINUED ON BACK" (if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

CITY OF WAITE PARK

By Alcuin J. Ringsmuth
Its Mayor

By Jeffrey J. Baird
Its City Clerk - Treasurer

Affix Deed Tax Stamp Here

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

STATE OF MINNESOTA
COUNTY OF STEARNS } ss.

The foregoing was acknowledged before me this 18TH day of December, 19 90, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk - Treasurer of the City of Waite Park, a municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

KENNETH E. DICKINSON
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 20, 1991

Kenneth E. Dickinson
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (Include name and address of Grantee):

Michael M. Murphy and
Delores A. Murphy
P.O. Box 248
St. Cloud, MN 56302

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Gordon H. Hansmeier
DONOHUE RAJKOWSKI, LTD.
P.O. Box 1433
St. Cloud, MN 56302
612-251-1055

Return
Murphy Law Office
Box 504
St Cloud MN 56302

DEED TAX # 2122890 7043
DEED TAX 134 33.00
12/28/90 2 0 7043
CLRK 4 CSH TOS

MICROFILMED
Page 1 of 2

(1)

CONTINUATION OF LEGAL DESCRIPTION:

to the point of beginning. Containing 1.28 acres and subject to any easements of record.

ALSO SUBJECT TO a 16 foot perpetual utility easement over, under and across the above described Tract 1.

The centerline of said easement is described as follows:

Beginning at a point on the south line of said Tract 1 distant 8.00 feet east of the southwest corner of said Tract 1; thence northerly to a point on the north line of said Tract 1 distant 30.00 feet east of the northwest corner of said Tract 1 and there terminating.

SUBJECT TO AND TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the centerline to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet and there terminating.

As to this parcel, the City of Waite Park assigns any claim or right it may have for indemnity for cleanup or other damages.

MICROFILMED
Page 2 of 2

LIMITED WARRANTY DEED

Form No. 17-M

Miller-Davis Co., Minneapolis
Minnesota Uniform Conveyancing Blanks (1984)

Individual(s) to Corporation
or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required
Certificate of Real Estate Value No. _____
JUN 13 1991, 19__

[signature]
County Auditor

by [signature] Deputy

STATE DEED TAX DUE HEREON: $ 3.30

Date: June 5, 1991

0697840

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND RECORDED ON

1991 JUN 13 AM 11:08

AS DOC. 0697840
PATRICIA [illegible]
COUNTY RECORDER

BY [signature] DEPUTY

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Michael M. Murphy and Delores A. Murphy husband and wife (marital status), Grantor (whether one or more), hereby conveys and quitclaims to The City of Waite Park, Grantee, a Municipal Corporation under the laws of Minnesota, real property in Stearns County, Minnesota, described as follows:

That part of the Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said SE 1/4, SE 1/4, thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the South line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the point of beginning of the Tract to be described; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 188.46 feet; thence North 89 degrees 36 minutes 13 seconds East a distance of 207.69 feet; thence South 00 degrees 02 minutes 05 seconds

CONTINUED ON BACK SIDE (If more space is needed, continue on back.)

together with all hereditaments and appurtenances belonging thereto. Grantor covenants and represents that:
(1) This Deed conveys after-acquired title; and
(2) Grantor has not made, done, executed or suffered any act or thing whereby the above-described property or any part thereof, now or at any time hereafter, shall or may be imperiled, charged or incumbered in any manner, and Grantor will warrant the title to the above-described property against all persons claiming the same from or through Grantor as a result of any such act or thing, EXCEPT: _____

*Affix Deed Tax Stamp Here*

[signature]
Michael M. Murphy

[signature]
Delores A. Murphy

STATE OF MINNESOTA } ss.
COUNTY OF Stearns }

The foregoing instrument was acknowledged before me this 5th day of June, 1991 by Michael M. Murphy and Delores A. Murphy husband and wife.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

CYNTHIA M. OLDEN
NOTARY PUBLIC - MINNESOTA
BENTON COUNTY
My Commission expires June 14, 1995

[signature]
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

City of Waite Park
Jeffrey Baird, Clerk
Box 339
Waite Park MN 56387

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Michael M. Murphy, I.D. #7665X
Murphy & Holden, P.A.
30 North Seventh Avenue
P.O. Box 866
St. Cloud, MN 56302
(612) 252-5922

DEED TAX # 2061391 5611
DEED TAX 134 3.30
06/13/91 2 0 5611
CLRK 4 CSH TOS

MICROFILMED
Page 1 of 2

CONTINUATION O F LEGAL DESCRIPTION:

West a distance of 10.23 feet; thence South 89 degrees 57 minutes 55 seconds East a distance of 91.06 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 179.61 feet to the point of beginning. Containing 1.28 acres and subject to any easements of record.

ALSO SUBJECT to a 16 foot perpetual utility easement over, under and across the above described Tract 1.

The centerline of said easement is described as follows:

Beginning at a point on the south line of said Tract 1 distant 8.00 feet east of the southwest corner of said Tract 1; thence northerly to a point on the north line of said Tract 1 distant 30.00 feet east of the northwest corner of said Tract 1 and there terminating.

SUBJECT TO AND TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the centerline to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet and there terminating.

As to this parcel, Grantors reassign to the City of Waite Park any claim or right Grantors may have for indemnity for cleanup or other damages.

THE SALE PRICE OR OTHER CONSIDERATION GIVEN FOR THIS PROPERTY WAS $1,000 OR LESS.

Return
✓ Donohue Rajkowski Ltd
Box 1433
St Cloud MN 56302

0697840

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Page 2 of 2

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code

1. Debtor(s) (Last Name First) and Address(es)

PARK PRESS QUALITY PRINTING
P.O. BOX 475
Waite Park, MN 56387

0714461

2. Secured Party(ies) and Address(es)

✓THE FIRST AMERICAN NATIONAL
BANK OF ST. CLOUD
1100 West St. Germain St.
P.O. Box 847
Saint Cloud, Minnesota 56301

DRAFTED BY:

For Filing Officer

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

92 MAR 27 AM 9:36

AS DOC. # 130182

PATRICIA M. OVERMAN
COUNTY RECORDER

3. This statement refers to original Financing Statement bearing File No. 099106 & RE 0617873

Filed with Stearns County Date Filed 5-4 19 87

4. [X] Continuation. The original Financing Statement between the foregoing Debtor and Secured Party, bearing file number above, is still effective.

5. [ ] Assignment. The Secured Party's right under the Financing Statement bearing file number shown above to the property described in Item 9 has been assigned to the assignee whose name and address appears in Item 9.

6. [ ] Amendment. Financing Statement bearing file number shown above is amended as set forth in Item 9.

7. [ ] Release. Secured Party maintains a security interest in financing statement bearing file number shown above but releases the collateral shown in Item 9.

8. [ ] Termination. Secured Party no longer claims a security interest under the Financing Statement bearing file number shown above.

9.

By: _____
Signature(s) of Debtor(s) (necessary only if Item 6 is applicable.)

By: Nadene M. Kruize
Signature(s) of Secured Party(ies)

(1) FILING OFFICER COPY—ALPHABETICAL

(Rev. 6/84)

MICROFILMED

Page 1 of 2

Approved by Secretary of State of Minnesota

15

0714461

STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

92 MAR 27 AM 9:36

AS DOC. # 0714461
PATRICIA M. OVERMAN
COUNTY RECORDER
BY D. Grundhoefer DEPUTY

MICROFILMED
Page 2 of 2

pink copy only

0722920

MICROFILMED
Page 1 of 6

RECORDATION REQUESTED BY:

STEARNS COUNTY NATIONAL BANK OF ALBANY
CROSSROADS CENTER
4039 WEST DIVISION STREET
ST. CLOUD, MN 56301

WHEN RECORDED MAIL TO:

STEARNS COUNTY NATIONAL BANK OF ALBANY
CROSSROADS CENTER
4039 WEST DIVISION STREET
ST. CLOUD, MN 56301

SEND TAX NOTICES TO:

Park Press Quality Printing, Inc.
355 6th Avenue North
Waite Park, MN 56387

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED FILED AND/OR
RECORDED ON

92 JUL 16 AM 11:25

AS DOC. # 0722920
PATRICIA M. OVERMAN
COUNTY RECORDER
BY [signature] DEPUTY

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

# MORTGAGE

**THIS MORTGAGE IS DATED JULY 10, 1992, between Park Press Quality Printing, Inc., a Minnesota Corporation, whose address is 355 6th Avenue North, Waite Park, MN 56387 (referred to below as "Grantor"); and STEARNS COUNTY NATIONAL BANK OF ALBANY, whose address is CROSSROADS CENTER, 4039 WEST DIVISION STREET, ST. CLOUD, MN 56301 (referred to below as "Lender").**

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, **located in Stearns County, State of Minnesota (the "Real Property"):**

SEE ATTACHED EXHIBIT A.

**The Real Property or its address is commonly known as 355 6th Avenue North, Waite Park, MN 56387.** The Real Property tax identification number is 98-61600-30.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantor.** The word "Grantor" means **Park Press Quality Printing, Inc.** The Grantor is the mortgagor under this Mortgage.

**Guarantor.** The word "Guarantor" means and includes without limitation, each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means STEARNS COUNTY NATIONAL BANK OF ALBANY, its successors and assigns. The Lender is the mortgagee under this Mortgage.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

**Note.** The word "Note" means the promissory note or credit agreement dated July 10, 1992, **in the original principal amount of $588,000.00** from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, or about the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws,

RETURN TO TRI COUNTY ABSTRACT

# EXHIBIT A

| Principal | Loan Date | Maturity | Loan No | Call | Collateral | Account | Officer | Initials |
|---|---|---|---|---|---|---|---|---|
| $588,000.00 | 07-10-1992 | 07-10-1997 | 38452 | | | 4980 | JH | |

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

**Borrower:** Park Press Quality Printing, Inc. (TIN: 411387921)
355 6th Avenue North
Waite Park, MN 56387

**Lender:** STEARNS COUNTY NATIONAL BANK OF ALBANY
CROSSROADS CENTER
4039 WEST DIVISION STREET
ST. CLOUD, MN 56301

This EXHIBIT A is attached to and by this reference is made a part of each Deed of Trust or Mortgage, dated July 10, 1992, and executed in connection with a loan or other financial accommodations between STEARNS COUNTY NATIONAL BANK OF ALBANY and Park Press Quality Printing, Inc..

That part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 63.30 feet, thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1268.72 feet east of the south quarter corner of said Section 8: thence North at right angles to said south line a distance of 370.00 feet and there terminating.

THIS EXHIBIT A IS EXECUTED ON JULY 10, 1992.

BORROWER:

Park Press Quality Printing, Inc.

By: _____
James J. Bloomer, President

LENDER:

STEARNS COUNTY NATIONAL BANK OF ALBANY

By: _____
Authorized Officer

LASER PRO (tm) Ver. 4.15 (c) 1992 CFI Bankers Service Group, Inc. All rights reserved. [MN-G60 PARKJ.LN]

VTCAB

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# 0733112

QUIT CLAIM DEED

Corporation to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value (X) filed ( ) not required. Certificate of Real Estate Value No. _____
DEC - 2 1992

County Auditor
by Virgil Urbanski

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR RECORDED ON

92 DEC -2 PM 2:19
AS DOC. # 0733112
PATRICIA M. OVERMAN
COUNTY RECORDER
BY P. Overman DEPUTY

STATE DEED TAX DUE HEREON $33.00

Date: November 30, 1992

FOR VALUABLE CONSIDERATION, City of Waite Park, a Municipal corporation under the laws of Minnesota, Grantor, hereby conveys and quitclaims to Thomas Ardolf and Susan Ardolf, Grantees, joint tenants, real property in Stearns County, Minnesota, described as follows:

That part of the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said SE ¼ SE ¼, thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the south line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the point of beginning of the Tract to be described; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 188.46 feet; thence North 89 degrees 36 minutes 13 seconds East a distance of 207.69 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 10.23 feet; thence South 89 degrees 57 minutes 55 seconds East a distance of 91.06 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 179.61 feet to the point of beginning. Containing 1.28 acres and subject to any easements of records.

ALSO SUBJECT TO a 16 foot perpetual utility easement over, under and across the above described Tract 1.

MICROFILMED

The centerline of said easement is described as follows:

Beginning at a point on the south line of said Tract 1 distant 8.00 feet east of the southwest corner of said Tract 1; thence northerly to a point on the north line of said Tract 1 distant 30.00 feet east of the northwest corner of said Tract 1 and there terminating.

SUBJECT TO AND TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the centerline to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet and there terminating.

This deed is also subject to the additional terms and conditions set forth in the Purchase Agreement

together with all hereditaments and appurtenances belonging thereto.

The Seller certifies that the Seller does not know of any wells on the described real property.

CITY OF WAITE PARK

By: _____
Alcuin J. Ringsmuth, its Mayor

By: _____
Jeffrey J. Baird, its City Clerk Treasurer

Affix Deed Tax Stamp Here

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

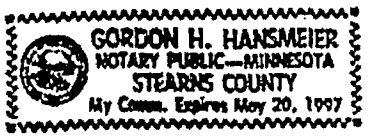
The foregoing instrument was acknowledged before me this 30th day of November, 1992, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk/Treasurer of the City of Waite Park, a



MICROFILMED
Page 2 of 3

Municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.

NOTARIAL STAMP




Gordon H Hansmeier

Signature of person taking acknowledgment

Tax statements for the real properly described in this instrument should be sent to:

Thomas and Susan Ardolf
1821 15th Avenue S.E.
St. Cloud, MN 56301

THIS INSTRUMENT WAS DRAFTED BY:

Gordon H. Hansmeier - 40770
Donohue Rajkowski Ltd.
P.O. Box 1433
11 Seventh Avenue North
St. Cloud, MN 56302
Telephone: (612) 251-1055

n:\city\waite1\ec113092.251

DEED TAX # 1120292 1783
DEED TAX 134 33.00
12/02/92 13:09:45
CLRK 9 CSH TOS 1 0 1783

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Page 3 of 3

751304

EXTENSION OF MORTGAGE. Form No. 49. OSWALD PUBLISHING CO., NEW ULM, MINN.
By Corporation and Individual. Minnesota Uniform Conveyancing Blanks

This Agreement, *Made this* 22nd *day of* JULY, *19* 93,
*between* PLAZA PARK BANK

*a corporation under the laws of the State of* MINNESOTA, *party of the first part, and*

THEISEN DESIGN AND MANUFACTURING, INC. A CORPORATION *of the County of* STEARNS *and State of* MINNESOTA, *part Y of the second part,*

*Witnesseth, That whereas the said party of the first part, is the owner and holder of a certain promissory note for* NINETY SIX THOUSAND AND NO/100ths---------- *DOLLARS, made by* THEISEN DESIGN AND MANUFACTURING, INC. A CORPORATION *dated* APRIL 10, *19* 90, *payable to the order of* PLAZA PARK BANK *and which note is secured by mortgage on real estate owned by said part Y of the second part, situated in the County of* STEARNS *and State of Minnesota, and recorded in the office of the County Recorder of said County, in Book of Mortgages on page* DOCUMENT #0685223

*And, Whereas, There is now due on said note and mortgage the sum of* NINETY ONE THOUSAND NINE HUNDRED FIFTY EIGHT AND 95/100ths---------- *DOLLARS,*

*And Whereas, at the special instance and request of the said party of the second part, as the present owner of said real estate, the party of the first part does hereby extend the time and payment of the balance due on said note and mortgage from* JULY 10, *19* 93, *to* JULY 10, 1996

*Now, Therefore, In consideration of said extension, said part Y of the second part do hereby agree with the said party of the first part to pay said principal sum at its maturity, as hereby extended, with interest thereon, until fully paid, at the rate of* 8.50% *per cent per annum, payable* IN MONTHLY INSTALLMENTS OF $1057.00 COMMENCING AUGUST 10, 1993

*It is hereby further agreed that all the stipulations, provisions, conditions and covenants of said principal note and mortgage shall remain in full force and effect, except as herein modified, and nothing herein contained shall be construed to impair the security or lien of the holder of said mortgage, nor to affect nor impair any rights or powers which it may have under said note and mortgage for nonfulfillment of this agreement.*

*In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its* VICE *President and its* ASST VICE PRES. *and its corporate seal to be hereunto affixed, and said party of the second part have hereunto set* their *hand s the day and year first above written.*

Seal

PLAZA PARK BANK

By _____
JAMES E. SCHLEPER
*Its* VICE *President*

_____
DAN J. HAGEN
*Its* ASST VICE PRESIDENT

_____
PETER S. THEISEN, PRESIDENT

_____
JOHN A. THEISEN, SECRETARY/TREASURER

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

CERTIFIED, FILED AND/OR
RECORDED ON

93 JUL 27 AM 11:23

AS DOC. # 751304
PATRICIA M. OVERMAN
COUNTY RECORDER

BY _____ DEPUTY

MICROFILMED

767620

| | |
|---|---|
| THOMAS ARDOLF<br>SUSAN ARDOLF<br>320 6TH AVENUE NORTH<br>WAITE PARK, MN 56387<br>MORTGAGOR<br>"I" includes each mortgagor above. | This instrument was prepared by<br>PLAZA PARK BANK<br>WAITE PARK MN 56387<br>PLAZA PARK BANK<br>WAITE AVE. & DIVISION ST.<br>WAITE PARK, MN 56387<br>MORTGAGEE<br>"You" means the mortgagee, its successors and assigns. |

REAL ESTATE MORTGAGE: For value received, I, THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE, mortgage to you, with power of sale, on JANUARY 27, 1994 (date), the real estate described below and all rights, easements, appurtenances, rents, leases and existing and future improvements and fixtures (all called the "property").

PROPERTY ADDRESS: 411 3RD STREET NORTH (Street), WAITE PARK (City), Minnesota 56387 (Zip Code)

LEGAL DESCRIPTION: SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF.

MORTGAGE REGISTRATION TAX 146.00

STEARNS COUNTY AUDITOR

DEPUTY AUDITOR

MORTGAGE # 1020394 194
MGE REGIS TX 132 46.00
02/03/94 09:57:25
CLRK 6 CSH TOS 1 0 194

THIS IS A RERECORDING OF A MORTGAGE DATED JULY 19, 1993, RECORDED JULY 20, 1993, DOCUMENT 750761 FOR THE PURPOSE OF INCREASING THE MORTGAGE AMOUNT BY $20,000.00

located in STEARNS County, Minnesota.

TITLE: I covenant and warrant title to the property, except for encumbrances of record, municipal and zoning ordinances, current taxes and assessments not yet due and _____.

SECURED DEBT: This mortgage secures repayment of the secured debt and the performance of the covenants and agreements contained in this mortgage and in any other document incorporated herein. Secured debt, as used in this mortgage, includes any amounts I owe you under this mortgage or under any instrument secured by this mortgage, including all modifications, extensions and renewals, thereof.

The secured debt is evidenced by (List all instruments and agreements secured by this mortgage and the dates thereof.):
PROMISSORY NOTE DATED JANUARY 27, 1994

☐ Future Advances: The above debt is secured even though all or part of it may not yet be advanced. Future advances are contemplated and will be secured to the same extent as if made on the date this mortgage is executed.

☐ Revolving credit loan agreement dated _____. All amounts owed under this agreement are secured as to all advances and readvances, regardless of the time or amount of advances, payments, or readvances and whether or not the advances or readvances are obligatory.

The above obligation is due and payable on FEBRUARY 10, 1997 if not paid earlier.

The total unpaid balance secured by this mortgage at any one time shall not exceed a maximum principal amount of ONE HUNDRED SEVENTY THOUSAND AND NO/100 Dollars ($ 170,000.00), plus interest plus any amounts disbursed under the terms of this mortgage to protect the security of this mortgage or to perform any of the covenants contained in this mortgage with interest on such disbursement.

☐ Variable Rate: The interest rate on the obligation secured by this mortgage may vary according to the terms of that obligation.

☐ A copy of the loan agreement containing the terms under which the interest rate may vary is attached to this mortgage and made a part hereof.

RIDERS: ☐ Commercial ☐ _____ ☐ _____

SIGNATURES: By signing below, I agree to the terms and covenants contained in this mortgage, including those on page 2 and in any riders described above signed by me.

X Thomas L Ardolf
THOMAS ARDOLF

X Susan R. Ardolf
SUSAN ARDOLF

ACKNOWLEDGMENT: STATE OF MINNESOTA, STEARNS County ss:
This instrument was acknowledged before me this 27 day of January 1994
by THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE

Corporate or Partnership Acknowledgment
(Title(s))
of _____ (Name of Corporation or Partnership)
a _____ on behalf of the corporation or partnership.

My commission expires:

(Seal) JAMES E. SCHLEPER
NOTARY PUBLIC-MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 29, 1997

MICROFILMED
Page 1 of 4

James E. Schleper
(Notary Public)

MINNESOTA
(page 1 of 2)

© 1990 BANKERS SYSTEMS, INC., ST. CLOUD, MN 56301 (1-800-397-2341) FORM OCP-MTG-MN 4/26/91

STEARNS COUNTY ABSTRACT CO. 10995

786882

QUIT CLAIM DEED--CORP. TO CORP.

786882

No delinquent taxes and transfer entered; Certificate of Real Estate Value (x) filed ( ) not required

94 NOV 23 PM 12:09

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY S. Stenseth DEPUTY

Certificate of Real Estate Value No. _____

NOV 23 1994, 19__

County Auditor

By _____
Deputy

STATE DEED TAX DUE HEREON: $ 990.00

Date: November 15, 1994

FOR VALUABLE CONSIDERATION, the City of Waite Park, a Municipal corporation, Grantor(s), hereby conveys and quitclaims to Waite Park Manufacturing, Inc., a Minnesota corporation, Grantee(s), real property in Stearns County, Minnesota, described as follows:

That part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the South line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 76.23 feet to the point of beginning of the parcel to be described; thence South 89 degrees 36 minutes 13 seconds West 749.64 feet; thence North 00 degrees 02 minutes 05 seconds East 355.81 feet; thence North 77 degrees 14 minutes 11 seconds East 174.12 feet; thence South 89 degrees 57 minutes 55 seconds East 693.17 feet; thence South 00 degrees 02 minutes 05 seconds West 367.67 feet; thence North 89 degrees 57 minutes 55 seconds West 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West 21.07 feet to the point of beginning. Containing 7.62 acres. Subject to a roadway easement over and across the East 22.00 feet thereof, and subject to any easements of record.

TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

✓ Ramler & Murray
5353 Wayzata Blvd Ste 403
Mpls MN 55416-1365

MICROFILMED
Page 1 of 5

DEED TAX # 1112394 1854
DEED TAX 134 990.00
11/23/94 10:36:50
CLRK 6 CSH TOS 1 0 1854

Commencing at the Southeast corner of said Section 8, thence North 90 degrees 00 minutes 00 seconds West 660.00 feet to the point of beginning of the center line to be described; thence North 00 degrees 00 minutes 00 seconds East 327.59 feet; thence North 89 degrees 57 minutes 55 seconds West 139.06 feet; thence North 00 degrees 02 minutes 05 seconds East 91.23 feet to the intersection with the South line of the above described parcel and there terminating. The side lines of said easement shall be prolonged or shortened to intersect.

AND TOGETHER WITH a 30 foot roadway easement for the purpose of ingress and egress over and across that part of the South Half of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, lying Westerly of the property herein sold in order to provide access from the West line of said property to Tenth Avenue North (formerly County Road 138). The specific boundaries of the easement area shall be determined by survey and by agreement of the parties prior to final payment by purchaser hereunder. Each party shall bear one-half of the cost of said survey,

AND TOGETHER WITH all rights to indemnification acquired by Seller from Burlington Northern Railroad Company under the terms of a certain deed dated August 20, 1986, filed in the office of the Stearns County Recorder on August 22, 1986, and recorded as Document No. 0602758 for costs relating to the clean-up of contaminants, pollutants, hazardous wastes and hazardous substances deposited in or located on the property herein sold.

together with all hereditaments and appurtenances belonging thereto.

Subject to the following additional easements:

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 499.18 feet to the point of beginning of said centerline; thence North 89 degrees 54 minutes 36 seconds East 176.04 feet; thence South 83 degrees 32 minutes 08 seconds East 109.89 feet; thence North 89 degrees 41 minutes 43 seconds East 577.72 feet and there terminating.



MICROFILMED
Page 2 of 5

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 523.00 feet to the point of beginning of said centerline; thence North 89 degrees 13 minutes 17 seconds East 108.82 feet; thence South 49 degrees 38 minutes 54 seconds East 155.78 feet; thence South 88 degrees 35 minutes 46 seconds East 305.00 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of storm sewer pipes, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the Southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 523.00 feet to the point of beginning; thence North 89 degrees 13 minutes 17 seconds East 108.82 feet; thence North 76 degrees 34 minutes 11 seconds East 170.55 feet; thence North 88 degrees 34 minutes 02 seconds East 588.49 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of watermains, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The centerline of said 16 foot easement is described as follows: Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 554.72 feet to the point of beginning of said centerline; thence North 89 degrees 10 minutes 51 seconds East 245.68 feet; thence South 04 degrees 55 minutes West 143.44 feet and there terminating.

A 16 foot perpetual utility easement for the purposes of watermains, over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.



MICROFILMED
Page 3 of 5

The center line of said 16 foot easement is described as follows: Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 741.51 feet to the point of beginning of said center line; thence North 18 degrees 30 minutes 05 seconds East 32.76 feet; thence North 66 degrees 12 minutes 46 seconds East 112.23 feet; thence North 74 degrees 58 minutes 46 seconds East 126.92 feet; thence North 88 degrees 31 minutes 10 seconds East 374.75 feet; thence South 03 degrees 51 minutes 17 seconds East 196.33 feet; thence South 89 degrees 00 minutes 13 seconds East 239.45 feet and there terminating.

together with all hereditaments and appurtenances belonging thereto.

The Seller certifies that there are no wells located on the property.

CITY OF WAITE PARK

[Affix Deed Tax Stamp Here]

By: Alcuin J. Ringsmuth
Alcuin J. Ringsmuth, Mayor

By: Jeffrey J. Baird
Jeffrey J. Baird, City Clerk/ Treasurer

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 15th day of November, 1994, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk/Treasurer of the City of Waite Park, a Municipal corporation, on behalf of the municipal corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Gordon H Hansmeier
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

GORDON H. HANSMEIER
NOTARY PUBLIC—MINNESOTA
STEARNS COUNTY
My Comm. Expires May 20, 1997

GORDON H. HANSMEIER
NOTARY PUBLIC—MINNESOTA
STEARNS COUNTY
My Comm. Expires May 20, 1997



MICROFILMED
Page 4 of 5

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

Waite Park Manufacturing, Inc.
430 North 7th Avenue
Waite Park, MN 56387

THIS INSTRUMENT WAS DRAFTED BY: (NAME AND ADDRESS)

RAJKOWSKI HANSMEIER LTD.
Gordon H. Hansmeier - 40770
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone: (612) 251-1055

n:\city\waite2\ac111494.701



MICROFILMED
Page 5 of 5

791483

QUIT CLAIM DEED--CORP. TO CORP.

No delinquent taxes and transfer entered; Certificate of Real Estate Value (X) filed ( ) not required

Certificate of Real Estate Value No. MAR - 3 1995, 19

County Auditor

By Virgil Urbanski
Deputy

791483

95 MAR -3 PM 4:11

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
By J. Laudenbach DEPUTY

STATE DEED TAX DUE HEREON: $280.50

DEED TAX # 2030395 1491
DEED TAX 134 280.50
03/03/95 2 0 1491
C[illegible] [illegible]SH TOS

Date: February 21, 1995

FOR VALUABLE CONSIDERATION, the City of Waite Park, a Municipal corporation, Grantor(s), hereby conveys and quitclaims to Waite Park Manufacturing, Inc., a Minnesota corporation, Grantee(s), real property in Stearns County, Minnesota, described as follows:

That part of the South Half of the Southeast Quarter (S ½ SE ¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 76.23 feet; thence South 89 degrees 36 minutes 13 seconds West 749.64 feet; thence North 00 degrees 02 minutes 05 seconds East 355.81 feet to the point of beginning of the parcel to be described; thence continuing North 00 degrees 02 minutes 05 seconds East 275.49 feet to a point 42.00 feet south of the southerly right of way line of Burlington Northern Railroad; thence South 85 degrees 06 minutes 57 seconds East, parallel to said right of way line 473.74 feet; thence easterly, along a tangential curve, concave to the north, radius 5771.58 feet, central angle 03 degrees 53 minutes 11 seconds, a distance of 391.49 feet; thence South 00 degrees 02 minutes 05 seconds West along a line not tangent to said curve, 177.02 feet; thence North 89 degrees 57 minutes 55 seconds West 693.17 feet; thence South 77 degrees 14

MICROFILMED
Page 1 of 3

minutes 11 seconds West 174.12 feet to the point of beginning. Containing 4.083 acres. Subject to a roadway easement over and across the east 22.00 feet thereof, and subject to any other easements of record.

Subject to the following additional easement:

A 16 foot perpetual utility easement for the purposes of watermains, over, under and across the South Half of the Southeast Quarter (S ½ SE ¼) of Section 8, Township 124 North, Range 28 West, Waite Park, Stearns County, Minnesota.

The center line of said 16 foot easement is described as follows: Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West, along south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 741.51 feet to the point of beginning of said center line; thence North 18 degrees 30 minutes 05 seconds East 32.76 feet; thence North 66 degrees 12 minutes 46 seconds East 112.23 feet; thence North 74 degrees 58 minutes 46 seconds East 126.92 feet; thence North 88 degrees 31 minutes 10 seconds East 374.75 feet; thence South 03 degrees 51 minutes 17 seconds East 196.33 feet; thence South 89 degrees 00 minutes 13 seconds East 239.45 feet and there terminating.

AND TOGETHER WITH all rights to indemnification acquired by Seller from Burlington Northern Railroad Company under the terms of a certain deed dated August 20, 1986, filed in the office of the Stearns County Recorder on August 22, 1986, and recorded as Document No. 0602758 for costs relating to the clean-up of contaminants, pollutants, hazardous wastes and hazardous substances deposited in or located on the property herein sold.

together with all hereditaments and appurtenances belonging thereto.

The Seller certifies that there are no wells located on the property.

[Affix Deed Tax Stamp Here]

CITY OF WAITE PARK

By: _____
Alcuin J. Kingsmuth, Mayor

By: _____
Jeffrey J. Baird, City Clerk/ Treasurer

MICROFILMED

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 21st day of February, 1995, by Alcuin J. Ringsmuth and Jeffrey J. Baird, the Mayor and City Clerk/Treasurer of the City of Waite Park, a Municipal corporation, on behalf of the municipal corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

JILL M. BAUER
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

Jill M. Bauer
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to: (Include name and address of Grantee)

Waite Park Manufacturing, Inc.
430 North 7th Avenue
Waite Park, MN 56387

THIS INSTRUMENT WAS DRAFTED BY: (NAME AND ADDRESS)

RAJKOWSKI HANSMEIER LTD.
Gordon H. Hansmeier - 40770
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone: (612) 251-1055

n:\city\waite2\ac022095.701

✓ Patrick Murray
402 National Bank Building
5353 Wayzata Boulevard
Minneapolis, MN 55416

MICROFILMED
Page 3 of 3

802960

# SUBDIVISION AGREEMENT

THIS AGREEMENT, made and entered into the day and year set forth hereinafter, by and between M E International, Inc., a Michigan corporation, hereinafter called the "Subdivider" and the City of St. Cloud, a municipal corporation, in the State of Minnesota, hereinafter called the "City."

WITNESSETH:

WHEREAS, the Subdivider is the owner and developer of a certain subdivision known as FOUNDRY ADDITION, which is located in Section 8, Township 124 North, Range 28 West, in the City of St. Cloud, Stearns County, State of Minnesota; and

WHEREAS, Section 11 of Ordinance No. 1085 as amended requires the Subdivider to enter into agreement with the City to provide for the construction of improvements required to provide service to the subdivision, and to provide for a method of payment for such improvements;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. That the Subdivider hereby agrees to construct, or have constructed, at his cost, those improvements itemized in Exhibit "A," attached hereto and by this reference made a part hereof.
2. That, in the event the Subdivider has not completed the improvements within the time periods specified in Exhibit "A," the City may declare the Subdivider to be in default of this agreement and may proceed to construct such improvements and to demand payment for the costs of such construction from the Subdivider. In this event, the City may immediately bring legal action

Return to: City of St. Cloud

MICROFILMED
Page 1 of 5

against the Subdivider to collect such sums, or may levy special assessments therefore against the property within the Subdivision.

3. That the Subdivider agrees to pay to the City reasonable attorney fees, to be fixed by the court, in the event that suit or action is brought to enforce the terms of this agreement.

4. That, in the event of presently unforeseen circumstances brought about by causes beyond the control of the Subdivider or the City, which makes the development of the subdivision impractical or impossible prior to the expenditure of any monies by the City for the improvements listed in Exhibit "A," this agreement may be voided, a 5/7 vote of the City Council shall be required for recognition that such unforeseen circumstances in fact exist; such action to void this agreement shall not be taken if, in the judgment of the Council, irreparable damage to the City and the public interest would result.

MICROFILMED
Page 2 of 5

IN WITNESS WHEREOF, the parties have hereunto set their hands this 31st day of July, 1995.

By: **M E International, Inc.**

T. E. Wieland, President

By: **The City of St. Cloud, Minnesota**

Mayor

City Clerk

STATE OF Minnesota )
) ss.
COUNTY OF Anoka )

On this 25th day of July, 1995, before me, a Notary Public within and for said County, personally appeared T. E. Wieland, of the corporation named in the foregoing instrument; and said T. E. Wieland acknowledged said instrument to be the free act and deed of said corporation.

Donna M. Borchardt

DONNA M BORCHARDT
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES 03-25-97

STATE OF Minnesota )
) ss.
COUNTY OF Benton )

On this 31st day of July, 1995, before me, a Notary Public within and for said County, personally appeared Charles B. Winkelman and Gregg A. Engdahl, to me personally known, who being each by me duly sworn did say that they are respectively the Mayor and City Clerk of the City of St. Cloud, a municipal corporation named in the foregoing instrument; that the seal affixed to said instrument is the corporate seal of the municipal corporation by authority of the City Council of the City of St. Cloud and the said Charles B. Winkelman and Gregg A. Engdahl acknowledged said instrument to be the free act and deed of said municipal corporation.

Nancy C. Forer

NANCY C. FORER
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

Return to:

THIS INSTRUMENT DRAFTED BY:
City of St. Cloud
Engineering Division
400 - 2nd Street South
St. Cloud, Minnesota 56301
(612) 255-7200

MICROFILMED
Page 3 of 5

## EXHIBIT "A"

## FOUNDRY ADDITION

The Subdivider shall construct, or have constructed, the following-listed improvements to City standard specifications in accordance with the terms of this Agreement:

A. **Improvements to be accomplished within six (6) months of the date of this Agreement:**

Repair the existing roadway in Foundry Circle so as to bring the roadway up to City standards, including the following:

- Cut out and patch pothole areas.
- Rout and patch transverse cracks.
- Install a thin bituminous overlay (1" minimum) over the entire road surface.
- Remove "islands" and install bituminous surface on the portion of the existing parking lot that falls within the cul-de-sac "bulb."

B. **Improvements to be accomplished prior to the development of Lot 1, Block 1, FOUNDRY ADDITION, but no later than three (3) years from the date of this Agreement:**

- Construct a drainage swale along the north side of Foundry Circle (to convey drainage to Anderson Avenue).

C. **Engineering Requirements:**

The Subdivider shall engage a licensed Professional Engineer who shall provide field survey, design and quality control services for the aforesaid improvements.

Upon completion of each phase of the work, the Subdivider's engineer shall submit a letter to the City Engineer certifying that the work has been completed in accordance with City standards and recommending same for acceptance and perpetual maintenance by the City.

The City Engineer shall inspect the completed work and, if it is found to be in accordance with City standards, shall accept same for perpetual maintenance by the City. If, however, the work is found to be deficient in any respect, then the Subdivider shall correct such deficiencies to the complete satisfaction of the City Engineer.

MICROFILMED
Page 4 of 5

802960

95 SEP 12 PM 12:58

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
By D. Hildebrandt DEPUTY

MICROFILMED
Page 5 of 5

Form No. 31-M—QUIT CLAIM DEED Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis

Corporation or Partnership to Corporation or Partnership

803662

19.50

WDC $1.20

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed (X) not required
Certificate of Real Estate Value No. _____
SEP 20 1995, 19 95

County Auditor

by _____ Deputy

803662

95 SEP 20 PM 1:58

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
by D. Laudenbach DEPUTY

STATE DEED TAX DUE HEREON: $ 1.65

Date: September 14, 19 95

(reserved for recording data)

FOR VALUABLE CONSIDERATION, M E INTERNATIONAL, a general partnership under the laws of Minnesota, Grantor, hereby conveys and quitclaims to M E INTERNATIONAL, INC., Grantee, a corporation under the laws of Michigan, real property in Stearns County, Minnesota, described as follows:

See Exhibit A attached hereto and incorporated hereunder.

The consideration for this deed is less than $500.00.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

M E INTERNATIONAL, a Minnesota general partnership
By M E INTERNATIONAL, INC., a Michigan ~~XXX~~ corporation, surviving partner
~~XXX~~ By: _____
Its PRESIDENT

STATE OF MINNESOTA
COUNTY OF HENNEPIN } ss.

The foregoing was acknowledged before me this 13th day of September, 1995, by Timothy E. Weilandthe President ~~XXXX~~ of M E International, Inc., a Michigan corporation, the surviving partner ~~XXX~~ _____ of M E International, a general partnership under the laws of Minnesota, on behalf of the partnership.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

JOHN D. GIUDICESSI
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

John D. Giudicessi
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

MICROFILMED
Page 1 of 3

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
Gray, Plant, Mooty, Mooty & Bennett
3400 City Center
33 South Sixth Street
Minneapolis, MN 55402

28 TRES99 950018055 DEED TX PAID $1.65 9/20/1995 13:16:38

Stearns County Abs. 13626 & 13627

Form No. 9-M—WARRANTY DEED Minnesota Uniform Conveyancing Blanks (1978) Miller-Davis Co., Minneapolis 2

2 / 19.50 WDC 30 WDC 4.20

Corporation or Partnership to Corporation or Partnership

803663

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( X ) filed ( ) not required
Certificate of Real Estate Value No. _____
SEP 20 1995, 19____
County Auditor
by _____ Deputy

303663

95 SEP 20 PM 1:58

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D Haudenschild DEPUTY

STATE DEED TAX DUE HEREON: $ 16597.35

Date: September 15, 19 95

(reserved for recording data)

FOR VALUABLE CONSIDERATION, M E International, Inc., a corporation under the laws of Michigan, Grantor, hereby conveys and warrants to Grede-St. Cloud, Inc., Grantee, a corporation under the laws of Minnesota, real property in Stearns County, Minnesota, described as follows:

See Exhibit I attached hereto and incorporated herein.

28 950018058 9/20/1995
TRES99 DEED TX 13:18:36
PAID
$16,597.35

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

See Exhibit II attached hereto and incorporated herein.

Affix Deed Tax Stamp Here

M E INTERNATIONAL, INC.
By _____
~~Xxx~~ Timothy E. Wieland the President

By _____
Its _____

STATE OF MINNESOTA }
COUNTY OF HENNEPIN } ss.

The foregoing was acknowledged before me this 13th day of September, 1995,
by Timothy E. Wieland ~~and~~ _____,
the President ~~and~~ _____,
of M E International, Inc., a corporation
under the laws of Michigan, on behalf of the corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

JOHN D. GIUDICESSI
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

John D. Giudicessi
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Grede-St. Cloud, Inc.
C/o Grede Foundries, Inc.
9898 W. Bluemound Road
Milwaukee, WI 53226

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Gray, Plant, Mooty, Mooty
& Bennett
3400 City Center
33 South Sixth Street
Minneapolis, Minnesota 55402

MICROFILMED
Page 1 of 3

Stearns County Abs. 13626 & 13627

## EXHIBIT I - LEGAL DESCRIPTION

Tract I: That part of the Northwest Quarter of the Southeast Quarter and that part of the Southwest Quarter of the Northeast Quarter all in Section 28, Township 125 North, Range 28 West, City of Sartell, Stearns County, Minnesota described as follows: Commencing at the Southeast corner of the Northeast Quarter of the Southwest Quarter; thence North 89 degrees 42 minutes 59 seconds West, assumed bearing, along the south line of the said Northeast Quarter of the Southwest Quarter, a distance of 1016.37 feet to the Southeast corner of a parcel of land described in Document Number 371403; thence North 04 degrees 49 minutes 30 seconds West along the east line of said parcel described in Document Number 371403, a distance of 280.01 feet; thence South 89 degrees 42 minutes 59 seconds East, parallel with the south line of said Northeast Quarter of the Southwest Quarter, a distance of 1036.55 feet to the east line of the said Northeast Quarter of the Southwest Quarter; thence South 89 degrees 12 minutes 01 second East, parallel with the south line of the said Northwest Quarter of the Southeast Quarter, a distance of 127.34 feet to the actual point of beginning; thence continue South 89 degrees 12 minutes 01 second East, a distance of 563.61 feet to the west line of SARTELL INDUSTRIAL PARK, a duly recorded plat, on file and of record in the Office of the County Recorder, Stearns County, Minnesota; thence North 00 degrees 33 minutes 34 seconds East, along the said west line, a distance of 1047.31 feet to the southeast corner of Lot 6, Block 3, said SARTELL INDUSTRIAL PARK; thence North 89 degrees 22 minutes 43 seconds West, along the south line of said SARTELL INDUSTRIAL PARK, a distance of 565.26 feet; thence South 00 degrees 28 minutes 07 seconds West a distance of 1045.56 feet to the point of beginning. Containing 13.559 acres, more or less. Together with an ingress and egress and utility easement as described in Document Number 0593506. Also subject to easements of record.

Subject to and together with a perpetual easement for ingress and egress and utility purposes over, under and across the following:

a. The north 30.00 feet of the said Northwest Quarter of the Southeast Quarter lying west of said SARTELL INDUSTRIAL PARK and that part of the said Southwest Quarter of the Northeast Quarter lying southerly of and westerly of said SARTELL INDUSTRIAL PARK;

b. The west 20.00 feet of Lots 3, 4, and 5, Block 3. The West 20.00 feet except the North 50.00 feet thereof of Lot 2. The South 20.00 feet of the North 70.00 feet of Lot 2, and the East 20.00 feet except the North 50.00 feet thereof, Lot 2, all in Block 3 together with that part of vacated 4th Avenue South and that part of vacated Industrial Drive lying adjacent to and 20.00 feet Easterly of that part of vacated 4th Avenue South, and lying adjacent to and 20.00 feet Southerly and Westerly of that part of vacated Industrial Drive, which accrued to Lot 1, Block 3 as a result of those certain street vacations dated October 15, 1985 and recorded as Document No. 0588481, in the office of the County Recorder, Stearns County, Minnesota. All in said plat of Sartell Industrial Park.

c. The West 20 feet of that part of the SW¼ NE¼ lying Southerly of the plat of Sartell Industrial Park, and also over, under, and across the North 30 feet of the West 148.54 feet of the NW¼ of the SE¼ all in Section 28, Township 125, Range 28.

MICROFILMED



together with all hereditaments and appurtenances belonging thereto.

Tract II: Lots 3 and 4, Block 1, Foundry Addition according to the recorded plat thereof.

Exhibit II - Permitted Exceptions

Tract I: Any matters disclosed by the survey dated November 9, 1990, prepared by Williamson-Kosmith, Inc.

Tract II:

1) Easements shown on the recorded plat of Foundry Addition.

2) Any matter disclosed by the survey dated December 4, 1989, prepared by Otto Associates Land Surveyors.

3) Unrecorded Industrial Track Agreement dated April 10, 1972, between Burlington Northern, Inc. and Electric Machinery Manufacturing Company, as amended by a Supplemental Agreement dated September 15, 1989, between Burlington

4) Agreement dated July 23, 1970 recorded November 10, 1970 in Book 52 of A&A page 245.

5) Utility Easement dated November 7, 1974 recorded November 27, 1974 in Book 61 of A&A page 487.

6) Access Agreement between ABB Power Distribution Inc., and ME International dated December 28, 1989 recorded January 3, 1990 as Document No. 669548.

7) Affidavit by Johann Wagner, employee of ABB Power Distribution Inc., dated December 14, 1989, recorded January 3, 1990 as Document No. 669550.

8) Overhead Power Line along the Southerly side of above described land as shown upon the Survey dated July 28, 1989 and revised December 4, 1989 made by Otto Associates Land Surveyors.

9) Electric Distribution Easement to Northern States Power Company dated January 5, 1990 recorded January 10, 1990 as Document No. 670021.

10) Easement Agreement recorded February 8, 1991 as Document No. 691031.

11) Subdivision Agreement dated 7-31-95 between the City of St. Cloud and M E International, Inc., a Michigan corporation, recorded as Document No. 502960.

GP:217871 v1

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Page 3 of 3

Stearns County Abs 13626 & 13627

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# SHARED WALL AGREEMENT

THIS AGREEMENT is made as of the 15th day of September, 1995, by and between ME INTERNATIONAL, INC., a Michigan corporation ("ME"), and GREDE-ST. CLOUD, INC., a Minnesota corporation ("GREDE").

WITNESSETH:

WHEREAS, pursuant to that certain Asset Purchase Agreement dated June 15, 1995, 1995, GREDE has acquired that certain real estate located in the City of St. Cloud, County of Stearns, State of Minnesota, which real estate contains a foundry (the "Foundry"), all as more particularly described on the attached Exhibit A (the "Foundry Property");

WHEREAS, ME is the owner of certain real estate located in the City of St. Cloud, County of Stearns, State of Minnesota, which real estate contains an office building (the "Office Building"), all as more particularly described on the attached Exhibit B (the "Office Property");

WHEREAS, the Foundry and the Office Building share a common wall (the "Wall"), as outlined on the attached Exhibit C; and

WHEREAS, ME and GREDE desire that the Wall shall be and shall remain a party wall for the term of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, ME and GREDE agree as follows:

## ARTICLE I - DECLARATION OF PARTY WALL

The Wall shall constitute a party wall, and GREDE, its successors and assigns, and ME, its successors and assigns, shall have the joint right to use the Wall.

## ARTICLE II - USE OF THE WALL

2.1 Use of the Wall. Each party shall have the full right to use the Wall as required in the normal course of its operations; provided, however, that the use of such Wall by either party shall not injure the adjoining building or facilities and shall not impair the Wall's benefits and support to which the adjoining building or facilities are entitled.

2.2 Conformity With Building Regulations. Any additions, extensions, repairs, restorations, connection to or openings in the Wall occurring at any time in the future shall be performed only upon the mutual consent of both parties, which consent shall not be unreasonably withheld, in a substantial and workmanlike manner of like durability, strength and other qualities of the existing Wall, and shall conform in all respects to the laws and ordinances regulating the construction and maintenance of the Foundry, the Office Building, and the Wall.

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Page 1 of 8

## ARTICLE III - DURATION AND EFFECT OF AGREEMENT

3.1 Term of Agreement. This Agreement shall be in effect as long as the Wall is in existence and is not substantially destroyed. If the Wall is substantially destroyed and is rebuilt or restored pursuant to Article IV hereof, this Agreement shall continue in full force and effect. The sole purpose of this Agreement is to create the rights in, and obligations to, the Wall contained herein. Nothing in this Agreement shall be construed to convey to either party the fee to any part of the other party's property.

3.2 Renewal by Law. If, under any applicable Minnesota law, at any time during the term of this agreement, easements, covenants, and restrictions on use of real estate set forth in any recorded instruments may be barred or rendered unenforceable after various periods from the date of the recording as set forth in the statutes unless an instrument as prescribed by such statutes is filed for record, then as to any such restriction, easement, condition or covenant contained herein which is to be extended beyond its applicable period as provided in the statute, any party hereto or any successor or assign of a party hereof may file for record the proper instrument for the purpose of extending the same beyond the statutory period so that the same shall terminate only as provided in this Agreement. In the event any party or successor or assigns shall fail or refuse to join in the execution of any such instrument, then each and every other party is hereby appointed as attorney-in-fact for such party failing or refusing to join in such a request to execute and file such an instrument, which power shall be deemed coupled with an interest.

## ARTICLE IV - MAINTENANCE, REPAIR AND REBUILDING

4.1 Routine Maintenance and Repairs. The parties shall bear the obligation and expense of routine maintenance of their respective sides of the Wall. Any and all costs of repairs, maintenance or rebuilding to either party's side of the Wall affecting non-structural elements of the Wall, such as painting, the attachment of fixtures, or similar work, shall be borne by the party performing the work.

4.2 Damage Due to Acts of Parties. Should the Wall, including any and all structural elements of the Wall, be injured or require repair or rebuilding due to the acts or omissions of either party, or its tenants, guests, invitees, agents, or representatives, whether intentional or unintentional, the expense of any such repairs or rebuilding of the Wall shall be borne by the party which caused the damage or destruction.

4.3 Damage by Fire or Other Casualty. Should the Wall, including any and all structural elements of the Wall, be totally or partly destroyed by fire or other casualty or cause, other than by acts or omissions of either party hereto, or its tenants, guests, invitees, agents, or representatives, and should either party desire to repair or rebuild the Wall, the cost of such repair or rebuilding of the Wall or such portions of the Wall shall be borne equally by the parties. Any sum received from insurance by either party regarding the Wall shall be applied to the rebuilding or restoration of the Wall. The party seeking to commence any such repair or



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Page 2 of 8

rebuilding shall provide an estimate of the costs to the other party. The party which commenced the work shall thereafter be entitled to reimbursement from the other party for its share of the costs of the repair or rebuilding within ten (10) days of presentation of satisfactory evidence of the final costs of the repair or rebuilding to the other party.

4.4 Structural Wear and Tear or Deterioration. Should either party at any time deem it reasonably necessary to repair or rebuild any or all of the structural elements of the Wall due to normal wear and tear or deterioration, other than by acts or omissions of either party hereto, or its tenants, guests, invitees, agents, or representatives, the cost of such repair or rebuilding shall be borne equally by the parties; provided, however, that the party seeking to commence any such repair or rebuilding shall have first given written notice of the nature of the work and an estimate of the costs to the other party, and shall have received the consent of the other party to commence the work, which consent shall not be unreasonably withheld or delayed. The party which commenced the work shall thereafter be entitled to reimbursement from the other party for its share of the costs of the repair or rebuilding within ten (10) days of presentation of satisfactory evidence of the final costs of the repair or rebuilding.

4.5 Rights in New Wall. The rights of the parties with respect to a new Wall under this Section shall be the same as their rights as set forth herein with respect to the original Wall.

## ARTICLE V - MISCELLANEOUS

5.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties. No other representations, warranties or promises pertaining to this Agreement have been made by, or shall be binding on, either of the parties hereto.

5.2 Parties Bound. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, successors and assigns.

5.3 Applicable Law. This Agreement shall be interpreted by and construed in accordance with the laws of the State of Minnesota.

5.4 Headings. The titles to sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

5.5 Recording. The parties hereto hereby agree that either party may record this Agreement in the office of the Stearns County Register of Deeds.

5.6 Limitation on Liability. No mortgagee of the Foundry Property or the Office Property shall be responsible, obligated or liable for any obligation hereunder arising prior to the time such mortgagee acquires fee title to the parcel covered by such mortgagee's mortgage by foreclosure and expiration of any applicable redemption period or by deed in lieu of foreclosure.



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Page 3 of 8

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

ME INTERNATIONAL, INC.

By: _____
Timothy E. Wieland, President

GREDE-ST. CLOUD, INC.

By: _____
Ronald J. Burns, Vice President

STATE OF MINNESOTA )
) SS
COUNTY OF Hennepin )

Personally came before me this 13th day of September, 1995, the above named Timothy E. Wieland, President of ME International, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same in such capacity.

JOHN D. GIUDICESSI
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

_____
Notary Public, State of Minnesota
My Commission: _____



MICROFILMED
Page 4 of 5

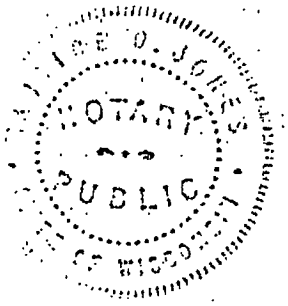
STATE OF WISCONSIN )
) SS
MILWAUKEE COUNTY )

Personally came before me this 14th day of September, 1995, the above named Ronald J. Burns, Vice President of Grede-St.Cloud, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same in such capacity.

Maurice D. Jones

* Maurice D. Jones

Notary Public, State of Wisconsin
My Commission: is permanent.




This Document was drafted by, and after recording should be returned to:

Maurice D. Jones
Davis & Kuelthau, S.C.
111 East Kilbourn Avenue
Suite 1400
Milwaukee, WI 53202-6613
(414) 276-0200

F:\DOCS\GRED-FOU\ME-INTER\MDJ0810



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# EXHIBIT A

## Legal Description of Foundry Property

Lots 3 and 4, Block 1, FOUNDRY ADDITION, Stearns County, Minnesota, according to the record plat thereof

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Page 6 of 8

## EXHIBIT B

### Legal Description of Office Property

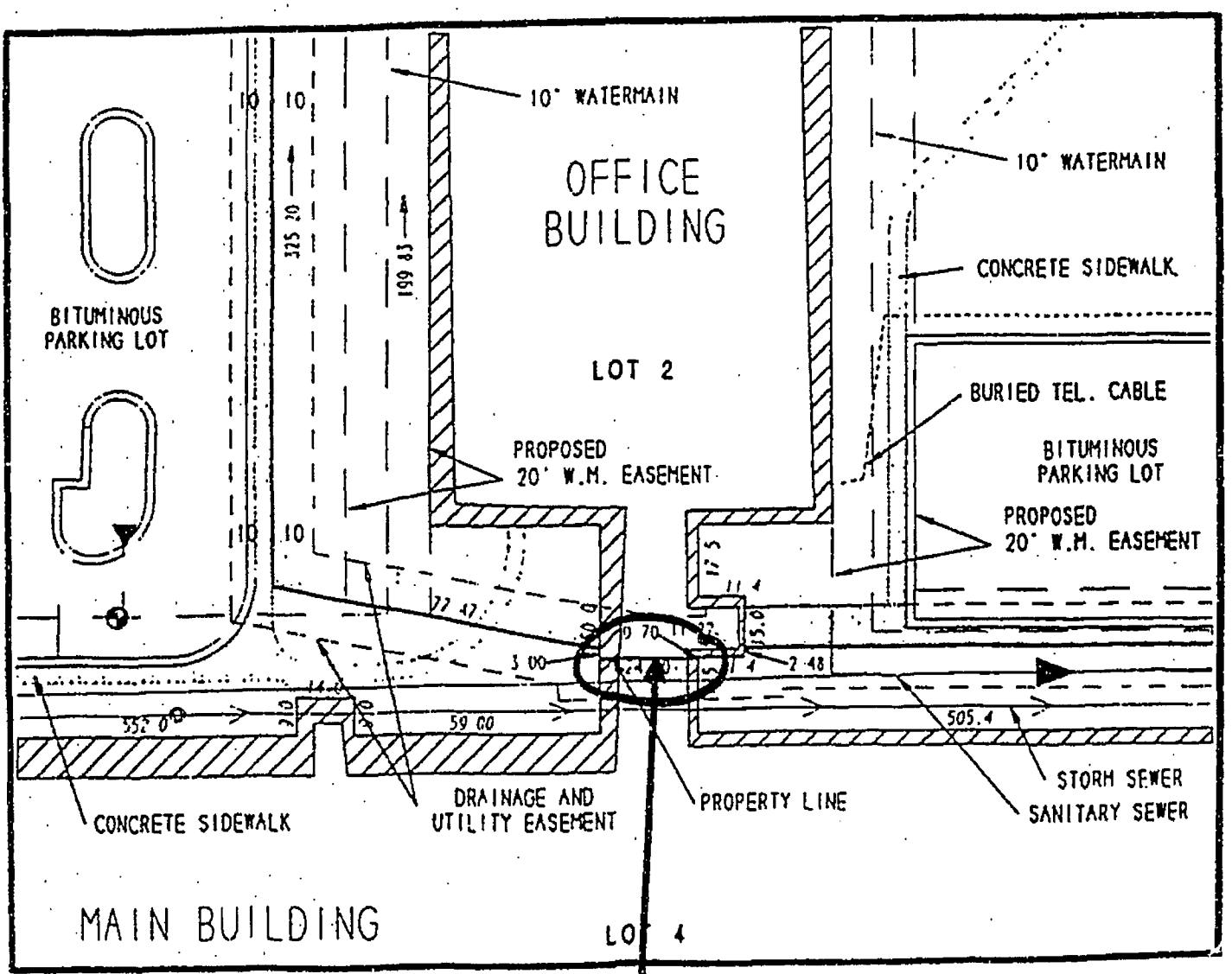
Lot 2, Block 1, FOUNDRY ADDITION, Stearns County, Minnesota, according to the record plat thereof

MICROFILMED
Page 7 of 8

# EXHIBIT C

## COMMON WALL

NO SCALE




COMMON WALL

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COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Prudentach DEPUTY

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803665

# UTILITY EASEMENT AGREEMENT
## (EXISTING WATER LINE -- MEI TO GREDE)

This Utility Easement Agreement ("Agreement") is made and entered into as of the 15th day of September, 1995, by and between ME International, Inc., a Michigan corporation ("MEI"), and Grede - St. Cloud, Inc., a Minnesota corporation ("Grede").

## RECITALS

A. MEI is the owner of that certain parcel of land located in Stearns County, Minnesota legally described in Exhibit A attached hereto and incorporated herein ("MEI Parcel").

B. Contemporaneously with the execution of this Agreement, Grede is purchasing from MEI and MEI is conveying to Grede fee title to that certain parcel of land located in Stearns County, Minnesota legally described in Exhibit B attached hereto and incorporated herein ("Grede Parcel").

C. The MEI Parcel and the Grede Parcel are adjacent to each other.

D. In connection with the conveyance by MEI of the Grede Parcel to Grede, MEI and Grede desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the Recitals, the mutual covenants contained herein, and for Ten Dollars ($10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grede and MEI hereby agree as follows:

1. Incorporation of Recitals. The Recitals are incorporated into and made a part of this Agreement.

2. Grant of Easement. MEI hereby grants, conveys and warrants to Grede a perpetual easement, over, under and across the Easement Parcel (as hereinafter defined) for the purpose of operating, maintaining, repairing and/or replacing the part of the existing underground water line serving the Grede Parcel which is located on the MEI Parcel. The easement granted hereby includes the right to enter upon the Easement Parcel and, to the extent reasonably necessary, other portions of the MEI Parcel, in order to perform such maintenance, repairs and/or replacements. All such maintenance, repairs and/or replacements will be performed in a safe manner, in compliance with all applicable laws, rules and regulations and at Grede's sole expense. Any entry upon the MEI Parcel shall be done in a manner which minimizes interference with the use thereof by the owner

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Stearns County Rec. 1362 & 1627

thereof. MEI shall have the right to use the Easement Parcel in any manner which does not materially impede, limit or restrict the exercise by Grede of the rights granted by this Agreement.

3. Definition of Access Easement Parcel. The term "Easement Parcel" means that part of the MEI Parcel described in Exhibit C attached hereto and incorporated herein.

4. Reservation of Right to Construct Utilities in the Easement Parcel. MEI hereby reserves the right to construct and thereafter maintain, repair and/or replace, at its sole cost, gas, water, electricity, telephone, storm and sanitary sewer and other utilities in the Easement Parcel (both above and below the surface) to serve any building now or hereafter located on MEI Parcel. The location of such utilities will be subject to Grede's approval, which will not be unreasonably withheld.

5. Repairs to Property of Other Party. Grede shall be responsible for the prompt repair at its sole expense of any damage to the MEI Parcel, including any currently existing improvements thereon and the utilities installed by MEI pursuant to Paragraph 4 hereof, which arises out of the exercise by Grede of its rights under this Agreement. MEI shall be responsible for the prompt repair at its sole expense of any damage to the water line serving the Grede Parcel which arises out of the exercise by MEI of its rights under this Agreement.

6. Indemnity. Grede shall indemnify, defend and hold MEI harmless from all loss, damages and expenses, including, but not limited to, reasonable attorney's fees, arising out of Grede's use of the Easement Parcel and/or a breach of its obligations under this Agreement, unless such occurrence is the result of the negligence or willful misconduct of MEI.

7. Severability. If any term, provision, covenant or restriction contained in this Agreement or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the terms, provisions, covenants and restrictions or the application of such term, provision, covenant or restriction to persons, entities or circumstances other than those to which it is held invalid, illegal or unenforceable shall not be affected thereby.

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Page 2 of 8

8. Enforcement. In the event that either party shall fail to comply with the covenants and agreements contained in this Agreement, the other party shall have the right to bring an action for damages and/or injunctive relief.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties. No other representations, warranties or promises pertaining to this Agreement have been made by, or shall be binding on, either of the parties hereto.

10. Paragraph Headings. The captions and paragraph headings in this Agreement are inserted only as a matter of convenience and for reference and they do not define, limit or describe the scope of this Agreement.

11. Perpetual Effect. This Agreement and all of the terms, covenants, conditions, rights and privileges set forth in this Agreement are made, granted, conveyed and entered into in connection with the conveyance of the Grede Parcel by MEI to Grede. All of the terms, covenants, conditions, rights and privileges set forth in this Agreement shall be perpetual and shall be appurtenant to and run with the MEI Parcel and Grede Parcel.

12. Governing Law. This Agreement shall be governed and construed in accordance with the law of the State of Minnesota.

13. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

14. Recording and Filing of This Agreement. The parties agree that this Agreement shall be recorded in the office of the County Recorder of Stearns County, Minnesota.

15. Limitation on Liability. Notwithstanding anything to the contrary contained in this Agreement, no fee owner of either the MEI Parcel or the Grede Parcel shall be personally obligated or liable

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Page 3 of 8

under this Agreement except to the extent that the event out of which the liability or obligation of the owner of the MEI Parcel or the Grede Parcel, as the case may be, arose during the period of its fee ownership of such parcel.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ME INTERNATIONAL, INC.

By _____
Timothy E. Wieland
Its President

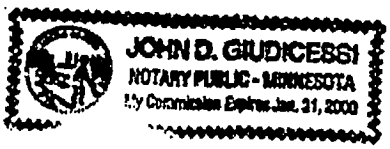
GREDE - ST. CLOUD, INC.

By _____
Ronald J. Burns
Its Vice President

MICROFILMED
Page 4 of 8

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

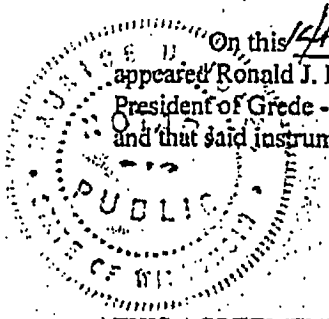
On this 13th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Timothy E. Wieland, to me personally known, who, being by me duly sworn did say that he is the President of ME International, Inc., a Michigan corporation, the corporation named in the foregoing instrument, and that said instrument is the free act and deed of said corporation.




John D. Giudicessi
Notary Public, _____ County, _____

STATE OF WISCONSIN )
) ss.
COUNTY OF MILWAUKEE)

On this 14th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Ronald J. Burns, to me personally known, who, being by me duly sworn did say that he is the Vice President of Grede - St. Cloud, Inc., a Minnesota corporation, the corporation named in the foregoing instrument, and that said instrument is the free act and deed of said corporation.



Maxine D. Jones
Notary Public, Milwaukee County, Wisconsin

THIS AGREEMENT DRAFTED BY;
Gray, Plant, Mooty, Mooty & Bennett, P.A.
(JDG)
3400 City Center
33 South Sixth Street
Minneapolis, Minnesota 55402

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Page 5 of 8

## EXHIBIT A

Legal Description of MEI Parcel

Lot 2, Block 1, Foundry Addition, according to the recorded plat thereof.

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## EXHIBIT B

Legal De. :ription of Grede Parcel

Lot 4, Block 1, Foundry Addition, according to the recorded plat thereof.

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Exhibit C

Legal Description of Easement Parcel

A 20.00 foot perpetual easement for watermain purposes over, under and across Lot 2, Block 1, FOUNDRY ADDITION, Stearns County, Minnesota, according to the record plat thereof. The centerline of said Easement is described as follows:

Commencing at the Southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 05 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet to the point of beginning of the centerline to be described; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet; thence North 89 degrees 50 minutes 52 seconds East, a distance of 59.87 feet and said centerline there terminating. The side lines of said easement are prolonged or shortened to terminate on the east line of said Lot 2 and a line which bears North 00 degrees 09 minutes 08 seconds West and South 00 degrees 09 minutes 08 seconds East from the point of termination of said centerline.

Together with a 20.00 foot perpetual easement for watermain purposes over, under and across said Lot 2. The centerline of said easement is described as follows:

Commencing at the southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 05 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet to the point of beginning of the centerline to be described; thence continue North 00 degrees 09 minutes 08 seconds West, a distance of 4.92 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 118.00 feet; thence South 00 degrees 09 minutes 08 seconds East, a distance of 199.83 feet to the southerly line of said Lot 2 and said centerline there terminating. The sidelines of said easement are prolonged or shortened to terminate on a line which bears North 89 degrees 50 minutes 52 seconds East and South 89 degrees 50 minutes 52 seconds West, from the point of beginning and the southerly line of said Lot 2.

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COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Laudenbach DEPUTY

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## Access Agreement

This Access Agreement ("Agreement") is made and entered into as of the 15th day of September, 1995, by and among Grede-St. Cloud, Inc., a Minnesota corporation ("Owner"), Grede Foundries, Inc., a Wisconsin corporation ("Grede"), ME International, Inc., a Michigan corporation ("MEI") and GS Technologies Corporation, a Delaware corporation ("GST").

### Recitals

A. Contemporaneously with the execution of this Agreement, MEI is conveying to Owner certain real Property located in the City of St. Cloud, Minnesota, the street address of which is 711 Anderson Avenue, which is legally described on the attached Exhibit A. Said real property and any and all structures and improvements thereon will hereinafter be referred to as "The Property." MEI is conveying The Property to Owner pursuant to an Asset Purchase Agreement among MEI, GST, Owner and Grede dated June 15, 1995, as amended by certain amendments thereto (collectively referred to as "Asset Purchase Agreement").

B. Prior to 1978, a manufacturing facility was operated on The Property which manufactured gas turbines, electric generators and related equipment. On or about January 1, 1978, Brown Boveri Turbomachinery, Inc. ("BBT") took possession of The Property and operated it until approximately 1983. During that period, BBT operated the plant and manufactured gas and steam turbines and electrical generators and related equipment. The manufacturing process of BBT and the prior owners used solvents and generated waste solvents.

C. The City of Waite Park, Minnesota owns and operates certain municipal water wells that are located a short distance from The Property. In January, 1985, said municipal wells were allegedly discovered to be contaminated. The wells were not used from or about February 4, 1985 until February 22, 1988.

D. On October 22, 1985, the Minnesota Pollution Control Agency ("MPCA") issued a request for response action to the Burlington Northern Railroad Company, owner and operator of an adjacent site, pursuant to Minn. Stat. Chapter 115B.

E. On March 22, 1986, the MPCA issued a request for response action ("RFRA") to BBT and others. The MPCA alleged that, as a result the dumping of waste chlorinated solvents on The Property, the soil and ground water of The Property and the Waite Park municipal wells were contaminated. The RFRA required a remedial investigation/feasibility study and remedial action to determine and correct the full extent of soil and ground water contamination on The Property and to provide Waite Park with an uncontaminated municipal water supply.

F. ABB Power Distribution, Inc. ("ABB"), as successor in interest to BBT, has undertaken certain activities in compliance with the RFRA. ABB has continuing access to The Property pursuant to an Access Agreement dated December 28, 1989 and recorded in the office of the Stearns County Recorder as Document No. 0669548.

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Stearns County Abs. 13626 & 13627

G. As part of the Asset Purchase Agreement, MEI and GST gave Owner and Grede an indemnity with respect to environmental matters at The Property ("Indemnity"), the terms and conditions of which are set forth in the Asset Purchase Agreement.

H. The purpose of this Access Agreement is to grant MEI and GST access to The Property, under the terms and conditions contained herein, in order to perform any obligations they may have under the Indemnity.

I. In entering into this Access Agreement, Owner, Grede, MEI and GST, and each of them, expressly deny liability under any law, to each other or to any third person including, without limitation, the U.S. Environmental Protection Agency ("EPA") and the MPCA.

NOW, THEREFORE, in consideration of the Recitals and the mutual promises hereinafter set forth, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, OWNER, GREDE, MEI and GST HEREBY AGREE AS FOLLOWS:

1. Owner hereby gives its consent and authorizes (a) MEI; (b) GST; and (c) the authorized employees, contractors or agents of MEI and GST (collectively referred to as "authorized persons"), to enter The Property for the purpose of performing any obligations MEI and GST may have pursuant to the Indemnity, including, but not limited to, (1) testing, transporting, sealing, treating or disposing of, and performing all acts incidental to testing, transporting, sealing, treating or disposing of, any waste materials located at The Property; (2) making any modifications to The Property which are necessary in order to safely and efficiently perform the obligations of MEI and GST pursuant to the Indemnity, (3) using or installing at MEI's and GST's expense necessary utility hook-ups including, but not limited to, telephone and electric services; (4) inspecting The Property and reviewing the progress of the work; and (5) preparing for and performing soil and groundwater investigations, including but not limited to installation of treatment systems, at and in the vicinity of The Property. This Access Agreement is entered into without prejudice to the rights of MEI and/or GST to seek amendments to this Access Agreement or to seek any additional access for any other lawful purpose.

2. Owner and Grede shall be jointly and severally liable to MEI and GST for all damages and repair costs incurred as a result of damage occurring after the date hereof to (i) monitoring wells (including structures appurtenant thereto) on, and (ii) all other facilities, improvements, fixtures and other personal property installed in, under or upon, and (iii) work performed upon, The Property pursuant to the Indemnity, whether caused (a) by the conduct of any business, (b) by the demolition of existing buildings, (c) by the construction of new buildings, or (d) by the action or inaction of any person, firm or entity having a right of ownership or possession of The Property or any portion thereof; provided, however, that Owner and Grede shall not be liable for such damage caused by MEI, GST, their employees or agents or caused by ABB in performing its indemnification obligations to MEI.

MICROFILMED
Page 2 of 7

3. Owner and Grede hereby waive and release any and all claims associated with the use and enjoyment of The Property which may arise against MEI, GST or their employees and agents as a result of any and all activities associated with the performance of their obligations under the Indemnity, other than claims for personal injury or property damage caused by MEI, GST or their employees and agents. In particular, but without limiting the generality of the foregoing, Owner and Grede agree to waive and release any claim that the actions of MEI or GST or their employees and agents in performing any obligations MEI and GST may have pursuant to the Indemnity interfered with or in any way damaged Owner or Grede, or the business or business opportunities of Owner or Grede. Notwithstanding anything to the contrary otherwise expressed or implied in this Agreement, nothing in this Agreement shall in any way limit the obligations of MEI or GST or the corresponding rights of Owner or Grede under the Indemnity.

4. MEI and GST agree that all contractors and subcontractors performing any activities pursuant to this Access Agreement will be insured pursuant to a policy or policies of comprehensive or general liability insurance with minimum limits of $1,000,000 per occurrence.

5. Except in an emergency, MEI and GST agree to give Owner reasonable notice of when MEI, GST or other authorized persons will require access to The Property. MEI, GST or other authorized persons shall enter at reasonable times and shall use reasonable efforts to minimize any material disruption or interruption of the conduct of Owner's business. Owner agrees not to obstruct or interfere with any work or other activity undertaken pursuant to the Indemnity. MEI or GST, as the case may be, shall, after completion of any action taken on The Property, in a reasonable, cost-effective manner, restore The Property to a condition functionally similar to that which existed prior to such action.

6. Owner and Grede warrant and represent that Owner is the sole fee owner of The Property and that to the best of their knowledge the consent of no other person is required to accomplish the purposes of this Access Agreement. Owner agrees not to sell, convey or otherwise grant to any person any interest in The Property for such period of time as this Access Agreement remains in effect, unless such sale, conveyance or grant of interest is made subject to this Access Agreement.

7. No person or entity not a party to this Agreement, including, without limitation, ABB, shall be deemed a beneficiary hereof. In particular, nothing in this Agreement is intended to relieve ABB or any other third party of any obligation or liability it may have with respect to any condition existing at the Property.

8. This Access Agreement is binding upon and shall inure to the benefit of the heirs, successors, and assigns of Owner, Grede, MEI and GST, and each of them.

MICROFILMED
Page 3 of 7

IN WITNESS WHEREOF, the parties have executed this Access Agreement on and as of the date first above written.

GREDE-ST. CLOUD, INC.

By _____
Ronald J. Burns
Its Vice President

GREDE FOUNDRIES, INC.

By _____
Ronald J. Burns
Its Vice President

ME INTERNATIONAL, INC.

By _____
Timothy E. Wieland
Its President

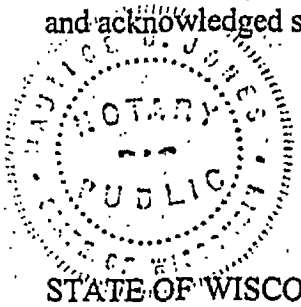
GS TECHNOLOGIES CORPORATION

By _____
Timothy E. Wieland
Its Vice President

MICROFILMED
Page 4 of 7

STATE OF WISCONSIN )
) ss.
COUNTY OF MILWAUKEE)

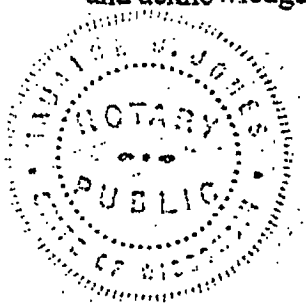
On this 14th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Ronald J. Burns, who being by me duly sworn, did say that he is the Vice President of GREDE-ST. CLOUD, INC., a Minnesota corporation, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation and acknowledged said instrument to be the free act and deed of said corporation.




Notary Public

STATE OF WISCONSIN )
) ss.
COUNTY OF MILWAUKEE)

On this 14th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Ronald J. Burns, who being by me duly sworn, did say that he is the Vice President of GREDE FOUNDRIES, INC., a Wisconsin corporation, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation and acknowledged said instrument to be the free act and deed of said corporation.

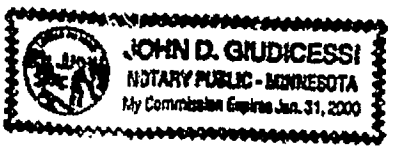



Notary Public

MICROFILMED
Page 5 of 7

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

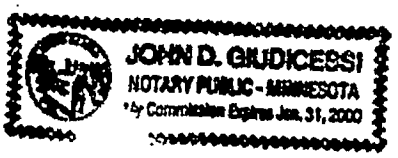
On this 13th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Timothy E. Wieland, who being by me duly sworn, did say that he is the President of ME INTERNATIONAL, INC., a Minnesota corporation, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation and acknowledged said instrument to be the free act and deed of said corporation.




John D. Giudicessi
Notary Public

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

On this 13th day of September, 1995, before me, a Notary Public within and for said County, personally appeared Timothy E. Wieland, who being by me duly sworn, did say that he is the Vice President of GS TECHNOLOGIES CORPORATION, a Delaware corporation, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation and acknowledged said instrument to be the free act and deed of said corporation.




John D. Giudicessi
Notary Public

Drafted By:

GRAY, PLANT MOOTY,
MOOTY & BENNETT, P.A.
3400 City Center
33 South Sixth Street
Minneapolis, MN 55402

GP:207244 v3

MICROFILMED
Page 12 of 17

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real Property located in Stearns County, Minnesota legally described as follows:

Lots 3 and 4, Block 1, Foundry Addition according to the recorded plat thereof.

803666

95 SEP 20 PM 1:59

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Laudenbach DEPUTY

GP:207244 v3

MICROFILMED
Page 1 of 1

4/19.50 3-7

806160

VARIANCE NO. VAR-95-13

A VARIANCE FROM ARTICLE 22, SECTION 5.5 OF THE ST. CLOUD ZONING ORDINANCE, ORDINANCE #1305

WHEREAS, the Zoning Board of Appeals has received and considered, held a public hearing on July 18, 1995, and has approved a variance from Article 22, Section 5.5 (building height) of the St. Cloud Zoning Ordinance, Ordinance #1305, for the following property: Lot 4, Block 1, Foundry Addition, City of St. Cloud, County of Stearns, State of Minnesota.

The variance approval will allow a 24' x 41' building addition to be constructed at a height of 54'.

The variance approval is subject to the following condition:

1. The site plan as approved by the Zoning Board of Appeals shall be the only approved site plan for the construction of the addition.

THIS DOCUMENT DRAFTED BY:
Planning Office
City of St. Cloud
400 2nd St. So.
St. Cloud, MN 56301
(612) 255-7218

Greg Muehring
Zoning Board Secretary

Gerald Hengel
Gerald Hengel
Assistant Planning Director

STATE OF MINNESOTA
COUNTY OF STEARNS
CITY OF ST. CLOUD

I, Gregg A. Engdahl, City Clerk of the City of St. Cloud, Minnesota, do hereby certify that the above and foregoing is an original document of a Variance #VAR-95-13 approved by the Zoning Board of Appeals of the City of St. Cloud, Minnesota. WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. CLOUD, MINNESOTA, This the 24th day of October 1995

Gregg A. Engdahl
City Clerk
City of St. Cloud, MN

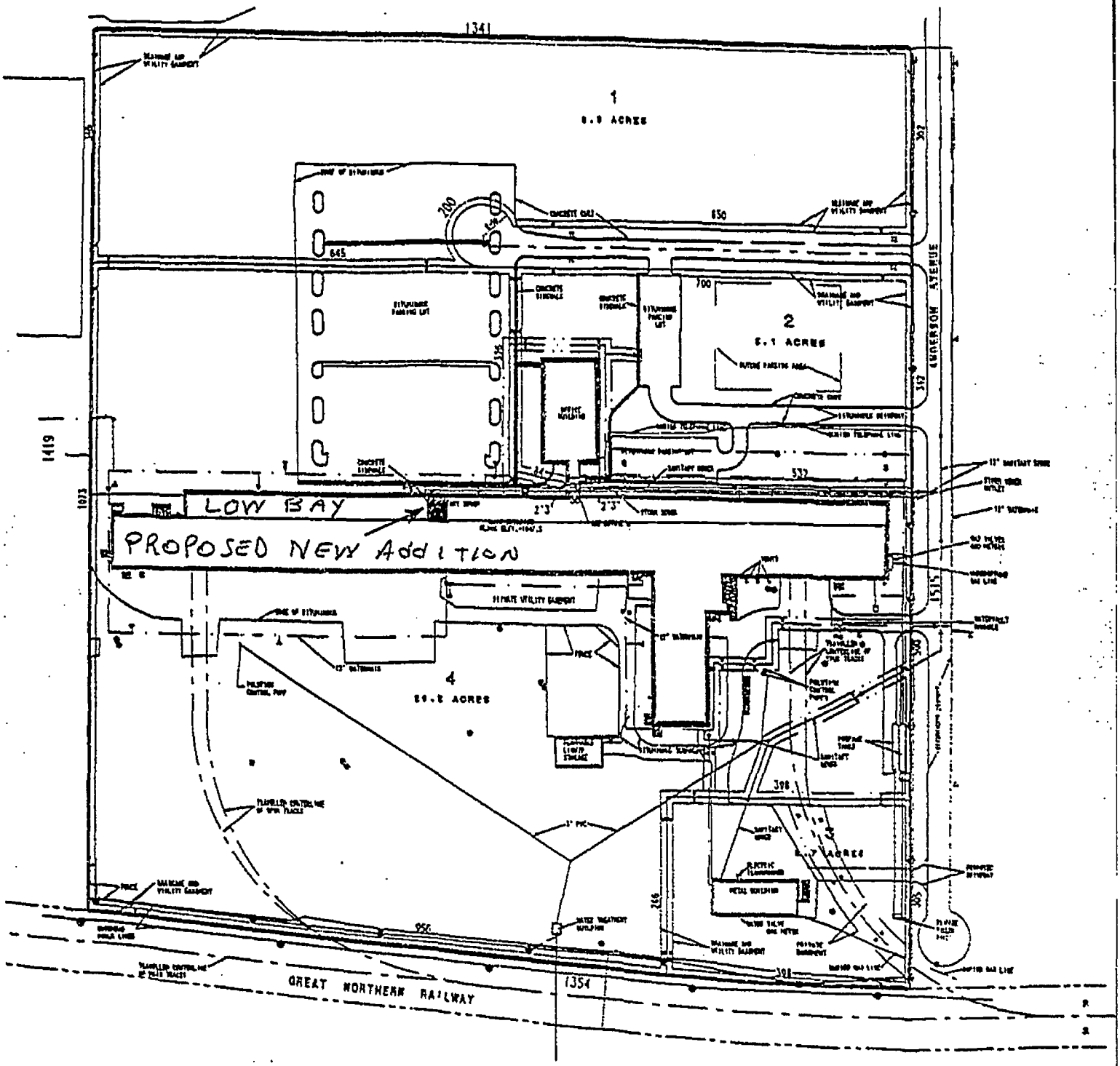
CITY OF ST. CLOUD INCORPORATED 1856 MINNESOTA

STATE OF MINNESOTA, COUNTY OF Stearns
The foregoing was acknowledged before me this 17th day of October, 1995, by Greg Muehring, Zoning Board of Appeals Secretary, and Gerald Hengel, City of St. Cloud Ass't. Planning Director.

Debra A. Backes
Notary Public

DEBRA A. BACKES
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

MICROFILMED
Page 1 of 2




806160

95 OCT 25 PM 1:24

MICROFILMED
Page 2 of 2

COUNTY RECORDER
STEARNS CO. MN
D. Haudenbach DEPUTY

Site Plan as
Approved by the
Zoning Board of Appeals
on July 18, 1995
VAR-95-13

19.50

811080

# SHORT FORM OF LEASE

THIS SHORT FORM OF LEASE made as of the 18th day of December, 1995, by and between M E International, Inc., a Michigan corporation (hereinafter designated "Landlord"), and Bankers Systems, Inc., a Delaware corporation (hereinafter designated "Tenant");

## WITNESSETH:

For and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations paid by each of the parties to the other and the receipt and sufficiency of which is hereby acknowledged by the respective parties, Landlord does hereby demise and lease unto Tenant and Tenant hereby leases from Landlord, upon and subject to the terms, covenants and conditions set forth in that certain lease between Landlord and Tenant bearing the date of October 14, 1992, with one subsequent Addendum and one subsequent Amendment, the premises situate in the County of Stearns and State of Minnesota and more particularly described as follows:

> Lot 2, Block 1, Foundry Addition to the City of St. Cloud, Stearns County, Minnesota, according to the plat thereof on record and filed with the County Recorder of the County of Stearns, Minnesota.

together with all rights, privileges, easements, and appurtenances belonging or in any way appertaining thereto (hereinafter called the "leased premises.")

TO HAVE AND TO HOLD the same for a term commencing on the 1st day of January, 1993, and ending at midnight on the 31st day of December, 1999, with extension options to Tenant through December 31, 2008, unless sooner terminated as in the Lease provided or permitted.



MICROFILMED
Page 1 of 3

The rentals to be paid under the Lease are set forth in the Lease, and Tenant has certain rights to purchase the leased premises all as set forth in the Lease, and the Addendum and Amendment to the Lease.

The purpose of this instrument is to record some of the basic terms and conditions of the Lease and this instrument is not intended to vary the terms and conditions of the Lease. All of the terms, covenants and conditions of the Lease are deemed by this reference to be included herein as if they had been fully set forth.

IN WITNESS WHEREOF, the parties here hereunto set their hands and seals the day and year first above written.

TENANT
**BANKERS SYSTEMS, INC.**

By: John P. Weitzel

Its: President

State of Minnesota )
ss
County of Stearns )

The foregoing instrument was acknowledged before me this 8 day of Dec, 1995, by John P. Weitzel, the President of Bankers Systems, Inc., a Delaware corporation, on behalf of said corporation.

Ronald F. Johnson
Notary Public, Stearns County
My Commission Expires:

RONALD F. JOHNSON
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

LANDLORD
**M E INTERNATIONAL, INC.**

By: Timothy Wieland

Its: PRESIDENT

State of Minnesota )

SS

County of ~~Hennepin~~ Anoka

The foregoing instrument was acknowledged before me this 15th day of December, 1995, by Timothy Wieland, the President of M E International, Inc., a Michigan corporation, on behalf of said corporation.

Sherry L. Dahlheimer

Notary Public, ~~Hennepin~~ County

My Commission Expires: Anoka

SHERRY L. DAHLHEIMER
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
My Comm. Expires Jan. 31, 2000

This instrument drafted by:

Ronald F. Johnson
Bankers Systems, Inc.
P.O. Box 1457
6815 Saukview Drive
St. Cloud, Minnesota 56303

811080

96 JAN -9 PM 1:12

MICROFILMED
Page 3 of 3

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Rudenbach DEPUTY

Form No. 27-M – QUIT CLAIM DEED  Minnesota Uniform Conveyancing Blanks (1978)  Miller-Davis Co., St. Paul

Individual(s) to Individual(s)

813567

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( X ) not required
Certificate of Real Estate Value No. _____
FEB 20 1996, 19____
County Auditor
by _____ Deputy

813567

96 FEB 20 PM 4:06

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Allendach DEPUTY

(reserved for recording data)

STATE DEED TAX DUE HEREON: $ 1.65
Date: February 16, 1996

FOR VALUABLE CONSIDERATION, George Courrier and Lucille Courrier, husband and wife, (marital status), Grantor(s), (s),

hereby convey(s) and quitclaim(s) to Courrier Investments, LLC a Minnesota Limited Liability Corporation, Grantee(s),
real property in Stearns County, Minnesota, described as follows:

Lot Two (2), Block One (1), Foundry Addition, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.

The total consideration for this transaction is less than $500.

(if more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto.

Affix Deed Tax Stamp Here

George Courrier

Lucille Courrier

STATE OF MINNESOTA
COUNTY Stearns } ss.

The foregoing instrument was acknowledged before me this 16th day of February, 1996, by George Courrier and Lucille Courrier, husband and wife, Grantor(s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):
MARY A. BROOKS
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Courrier Investments, LLC
1106 8th Avenue North
St. Cloud, MN 56303

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

STEARNS COUNTY ABSTRACT CO
21 Courthouse Square, PO Box 1011
St. Cloud, MN 56301

612-251-5920

File 14415 mb

MICROFILMED Page 1 of 1

20 TRES07

960003801 DEED TX PAID $1.65

2/20/1996 15:41:15

Stearns Co. Abs. - 14415

813568

WARRANTY DEED

No delinquent taxes and transfer entered; Certificate of Real Estate Value (X) filed ( ) not required
Certificate of Real Estate Value no. FEB 20 1996

County Auditor

Deputy

813568
96 FEB 20 PM 4:06

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Rudenbach DEPUTY

(reserved for recording data)

STATE DEED TAX DUE HEREON: ~~$2,805.00~~ 3135.00

Date: February 16, 1996

FOR VALUABLE CONSIDERATION, **ME International, Inc.**, a Michigan corporation, Grantor, hereby conveys and warrants to **Courrier Investments, LLC**, a Minnesota limited liability corporation, Grantee, real property in Stearns County, Minnesota, described as follows:

Lot 2, Block 1, Foundry Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the permitted encumbrances set forth on Exhibit A attached hereto and made a part hereof.

**ME INTERNATIONAL, INC.**

Affix Deed Tax Stamp Here

By _____
Timothy E. Wieland
Its President

**STATE OF MINNESOTA** )
) ss.
**COUNTY OF** Anoka )

The foregoing instrument was acknowledged before me this 14th day of February, 1996, by Timothy S. Wieland, the President of ME International, Inc., a corporation under the laws of Michigan, on behalf of the corporation.

NOTARY STAMP OR SEAL (OR OTHER TITLE OR RANK)

SHERRY L. DAHLHEIMER
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
My Comm. Expires Jan. 31, 2000

_____
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
Gray, Plant, Mooty, Mooty & Bennett, P.A.
3400 City Center, 33 S. 6th Street
Minneapolis, MN 55402
Attn: Jude Hockley

GP:260529 v1

MICROFILMED
Page 1 of 2

20 TRES07 960003798 DEED TX PAID $3,135.00 2/20/1996 15:39:12

Stearns County Abl. 14/15

# EXHIBIT A

## Permitted Encumbrances

1) Real estate taxes due and payable in the year 1996 and thereafter;

2) Agreement dated July 23, 1970, recorded November 10, 1970 in Book 52 of A & A, page 245;

3) Easements shown on the recorded plat of Foundry Addition;

4) Access Agreement between ABB Power Distribution Inc., and ME International, Inc. dated December 28, 1989 recorded January 3, 1990 as Document No. 669548;

5) Affidavit by Johann Wagner, employee of ABB Power Distribution Inc., dated December 14, 1989, recorded January 3, 1990 as Document No. 669550;

6) Subdivision Agreement dated July 31, 1995, between the City of St. Cloud and ME International, Inc., a Michigan corporation, recorded as Document No. 802960;

7) Shared Wall Agreement between Seller and Grede St. Cloud, Inc., dated September 15, 1995, recorded September 20, 1995 as Document No. 803664;

8) Utility Easement Agreement for existing water lines between Seller and Grede St. Cloud, Inc., dated September 15, 1995, recorded September 20, 1996 as Document No. 803665;

9) Lease dated October 4, 1992 (Short Form of Lease filed January 9, 1996 as Document No. 811080).

10) Easements, covenants, conditions and restrictions of record, if any, which do not interfere with the current use of the building included in the property.

GP:260546 v1

MICROFILMED
Page 2 of 2

2/19.50 chg

819604

VARIANCE NO. VAR-96-04

A VARIANCE FROM ARTICLE 22, SECTION 5.5 OF THE ST. CLOUD ZONING ORDINANCE, ORDINANCE #1305

WHEREAS, the Zoning Board of Appeals has received and considered, held a public hearing on March 19, 1996, and has approved a variance from Article 22, Section 5.5 (building height) of the St. Cloud Zoning Ordinance, Ordinance #1305, for the following property:

Lot 4, Block 1, Foundry Addition, City of St. Cloud, Stearns County, State of Minnesota

The variance approval will allow a building addition to be constructed with two portions at 85' in height (approximately 2,400 sq. ft. and 5,625 sq. ft.) and one portion at 54' (approximately 26,112 sq. ft.) in height.

The variance approval is subject to the following conditions:

1. The site plan as approved by the Zoning Board of Appeals shall be the only approved site plan for the construction of the addition.

2. That the signal from the microwave tower from the Bankers Systems, Inc. property (located directly north and adjacent to this property) to the Bankers Systems property located at 6815 Saukview Drive, St. Cloud, shall not be blocked because of the height for those portions of the building addition that are 85' in height. This condition applies only to the existing location of both microwave towers; if either tower is moved to a new location, this condition will not apply.

THIS DOCUMENT DRAFTED BY:
Planning Office
City of St. Cloud
400 2nd St. So.
St. Cloud, MN 56301
(612) 255-7218

Barbara J. Bemis
Barbara Bemis
Zoning Board Secretary

Gerald Hengel
Gerald Hengel
Assistant Planning Director

STATE OF MINNESOTA
COUNTY OF STEARNS
CITY OF ST. CLOUD
I, Gregg A. Engdahl, City Clerk of the City of St. Cloud, Minnesota, do hereby certify that the above and foregoing is an original document of a VARIANCE #VAR-96-04 approved by the Zoning Board of Appeals of the City of St. Cloud, Minnesota. WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. CLOUD, MINNESOTA, This the 13th day of May, 1996

Gregg A. Engdahl
Clerk
City of St. Cloud, MN

STATE OF MINNESOTA, COUNTY OF Stearns
The foregoing was acknowledged before me this 2nd day of April, 1996, by Barbara Bemis, Zoning Board of Appeals Secretary, and Gerald Hengel, City of St. Cloud Ass't. Planning Director.

Debra A. Backes
Notary Public

DEBRA A. BACKES
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 1999

MICROFILMED
Page 1 of 4

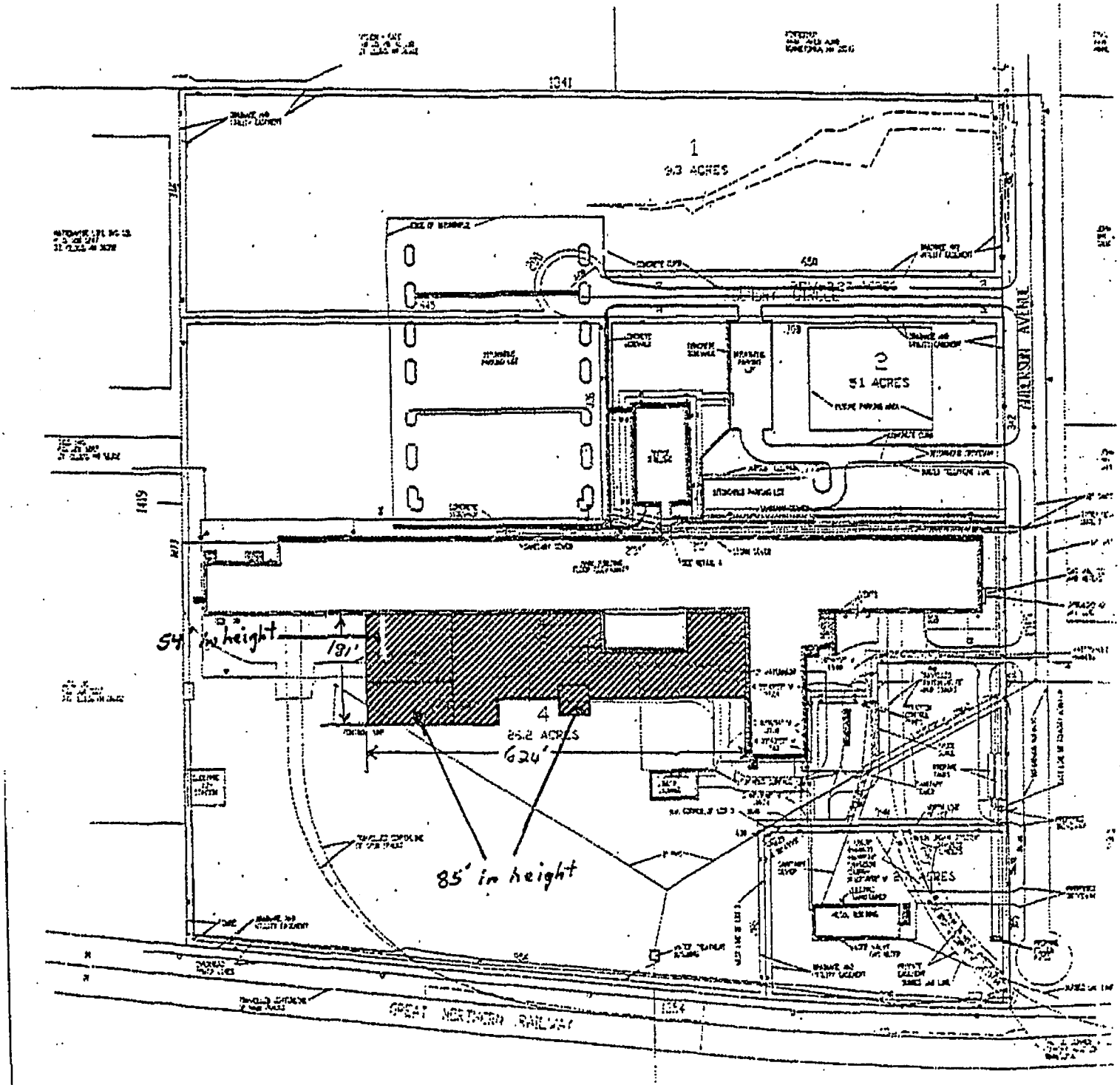
819604

96 MAY 15 PM 1:32

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY S. Stenseth DEPUTY

MICROFILMED
Page 2 of 4

# DEVELOPMENT PLAN OF

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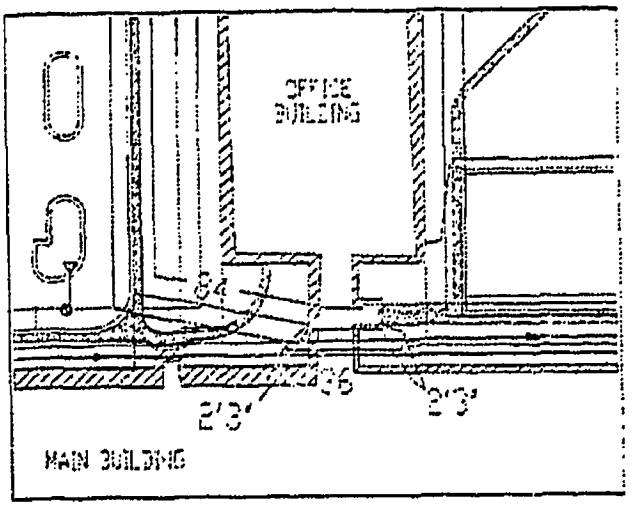
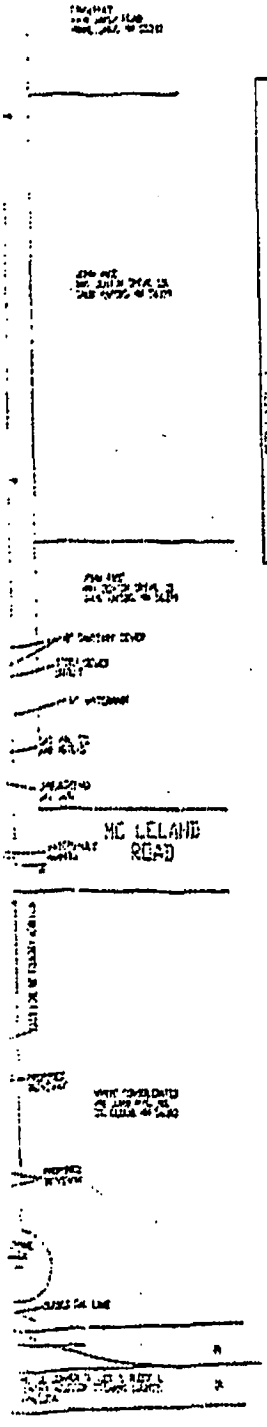
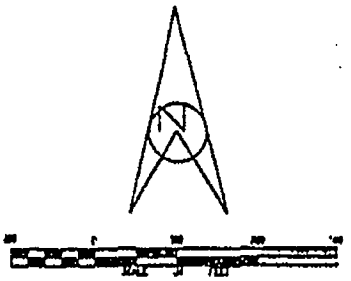
Page 3 of 4

# ]F FOUNDRY ADDITION

Site Plan as Approved by the Zoning Board of Appeals on March 19, 1996 VAR-96-04



PROPERTY DESCRIPTION

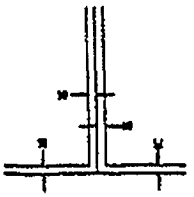
That part of the Southwest Quarter of Section 8, Township 124 North, Range 28 West, lying westerly of FIRST ADDITION TO ST. CLOUD INDUSTRIAL PARK, and northerly of the north right of way line of the Great Northern Railway Company, and easterly of the following described line:

Beginning at a point on said north right of way line of the Great Northern Railway Company, said point being 723 feet east of the west line of said Southwest Quarter of Section 8, as measured at right angles thereto; thence north and parallel with said west line of said Southwest Quarter to its intersection with the north line of said Southwest Quarter of Section 8 and there terminating.

LAND IMPROVEMENT INFORMATION TAKEN FROM A.L.T.A. / A.C.S.M. SURVEY DATED 7/28/1989. ADDITIONAL VISIBLE IMPROVEMENTS WERE LOCATED 6/7/1995

- ▲ DENOTES FIRE HYDRANT
- • DENOTES MANHOLE
- —— DENOTES CHAIN LINK FENCE
- DENOTES MONITOR WELL
- • DENOTES GATE VALVE
- DENOTES CONCRETE SURFACE
- ○ DENOTES POWER POLE
- —— DENOTES SANITARY SEWER
- —— DENOTES STORM SEWER
- PROPOSED BUILDING ADDITION

Drainage and utility easements shown thus




Being 10 feet in width and adjoining lot lines unless otherwise shown on plat

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of Minnesota.

Martin P. Conpion Professional Engineer

Date:_____ Reg. No._____

REQUESTED BY:

M.E. INTERNATIONAL
711 ANDERSON AVENUE NORTH
ST. CLOUD, MINNESOTA 56303
(612) 255-5200

JOB NO. 95218
6/5/1995
REVISED 6/12/1995
6/28/1995


SSOCIATES
Engineers & Land Surveyors, Inc.
9 West Division St.
Buffalo, Mn. 55313
(612) 682-4767
Fax: 682-3522



MICROFILMED
Page 4 of 4

19.50

# 830716

## STATE OF MINNESOTA

## UCC FIXTURE FINANCING STATEMENT

This statement is presented for filing in Real Estate Records under Minnesota Statutes Chapter 336.9-401 subdivision (1), paragraph (c).

830716

96 SEP 26 PM 2:14

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY DHollermann DEPUTY

This fixture financing statement is made this 16th day of September, 1996 between DEBTOR(s):

| | |
|---|---|
| NAME | Park Press Quality Printing, Incorporated |
| MAILING ADDRESS | 355 North Sixth Avenue, Waite Park, MN 56387 |
| FED. ID NUMBER | 41-1387921 |

of the County of Stearns of the State of Minnesota, and

| SECURED PARTY | ASSIGNEE OF SECURED PARTY |
|---|---|
| MINNESOTA BUSINESS FINANCE CORPORATION<br>SUITE 219<br>4039 WEST DIVISION STREET<br>ST. CLOUD, MINNESOTA 56301 | U. S SMALL BUSINESS ADMINISTRATION<br>610-C BUTLER SQUARE, 100 NORTH SIXTH STREET<br>MINNEAPOLIS MN Zip 55403-1563 |

This Fixture Financing Statement Covers The Following Fixture(s):

All machinery and equipment to be acquired with loan proceeds. See attached schedule.

...on land lying and being in the County of Stearns and State of Minnesota described as follows, to-wit:

See attached legal description.

Record owner of above described real estate if other than debtor(s):

*SECURED PARTY:*
MINNESOTA BUSINESS FINANCE CORPORATION

By: _____
Robert J. Alexander, Executive Director

State of Minnesota )
)
County of Stearns )

The foregoing instrument was acknowledged before me this 16th day of September, 1996 by Robert J. Alexander, the Executive Director of Minnesota Business Finance Corporation, a Minnesota corporation, on behalf of said corporation.

_____
JOYCE M. WICKEN
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

*DEBTOR:*
PARK PRESS QUALITY PRINTING, INCORPORATED

By: _____
James J. Blommer, President

State of Minnesota )
County of STEARNS )

The foregoing instrument was acknowledged before me this 16th day of September, 1996 by James J. Blommer, the President of Park Press Quality Printing, Incorporated, a Minnesota corporation, on behalf of said corporation.

_____
JOYCE M. WICKEN
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

DRAFTED BY: MINNESOTA BUSINESS FINANCE CORPORATION
Suite 219, 4039 W. Division Street
St. Cloud, Minnesota 56301

zz rev 2-10-95

✓ michael O'Tool
25874 Gould Gray Rd
Brainerd MN 56401

MICROFILMED

That part of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 63.30 feet, thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8: thence North at right angles to said south line a distance of 370.00 feet and there terminating.

MICROFILMED
Page 2 of 3

ONE (1) NEW HEIDELBERG MODEL 72 SP+L SIX COLOR OFFSET PRESS WITH COATING TOWER, PERFECTING BETWEEN UNITS 2 AND 3, ALCOLOR DAMPENING, CP TRONIC AND ALL STANDARD EQUIPMENT. ALSO ONE (1) CENTRAL AIR CABINET, GRAFIX I.R. DRYER MODEL SKI250 WITH AIR KNIFE, CPC 1-03 AND OXY DRY SPRAY UNIT MODEL 202. PRESS-SIZE - 20-1/2 x 28-3/8. SERIAL NUMBER #537023.

MICROFILMED
Page 3 of 3

19.50

839430

EXTENSION OF MORTGAGE. By Corporation and Individual. Form No. 49. Minnesota Uniform Conveyancing Blanks. OSWALD PUBLISHING CO., NEW ULM, MINN.

This Agreement, Made this 13th day of FEBRUARY, 19 97, between PLAZA PARK BANK

a corporation under the laws of the State of MINNESOTA, party of the first part, and

THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE of the County of STEARNS and State of MINNESOTA, part X of the second part,

Witnesseth, That whereas the said party of the first part, is the owner and holder of a certain promissory note for ONE HUNDRED SEVENTY THOUSAND AND NO/100ths-------- DOLLARS, made by THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE dated JANUARY 27, 19 94, payable to the order of

PLAZA PARK BANK and which note is secured by mortgage on real estate owned by said part X of the second part, situated in the County of STEARNS and State of Minnesota, and recorded in the office of the County Recorder of said County, in Book ..... of Mortgages on page ..... DOCUMENT #767620

And, Whereas, There is now due on said note and mortgage the sum of ONE HUNDRED FIFTY NINE THOUSAND SEVEN HUNDRED NINETY SEVEN & 50/100-DOLLARS,

And Whereas, at the special instance and request of the said part X of the second part, as the present owner of said real estate, the party of the first part does hereby extend the time and payment of the balance due on said note and mortgage from FEBRUARY 10, 19 97, to FEBRUARY 10, 2000

Now, Therefore, In consideration of said extension, said part X of the second part do es hereby agree with the said party of the first part to pay said principal sum at its maturity, as hereby extended, with interest thereon, until fully paid, at the rate of 8.75% per cent per annum, payable IN MONTHLY INSTALLMENTS OF $1,508.00 COMMENCING MARCH 10, 1997

It is hereby further agreed that all the stipulations, provisions, conditions and covenants of said principal note and mortgage shall remain in full force and effect, except as herein modified, and nothing herein contained shall be construed to impair the security or lien of the holder of said mortgage, nor to affect nor impair any rights or powers which it may have under said note and mortgage for nonfulfillment of this agreement.

In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its VICE President and its VICE PRESIDENT and its corporate seal to be hereunto affixed, and said part X of the second part ha VE hereunto set THEIR hand S the day and year first above written.

Seal

PLAZA PARK BANK

By JAMES E. SCHLEPER V.P.

Its VICE President

GREGORY D. TSCHIDA

Its VICE PRESIDENT

THOMAS ARDOLF

SUSAN ARDOLF

839430

97 FEB 14 PM 2:10

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY S. Stenseth DEPUTY

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Page 1 of 2

845329

Covers all of West River Business Park

EASEMENT AND DECLARATION OF RESTRICTIONS AND COVENANTS

THIS EASEMENT AND DECLARATION is made this 6 day of May, 1997, by the city of Waite Park.

WITNESSETH:

WHEREAS, the city of Waite Park, a political subdivision and municipal corporation of the state of Minnesota, is the fee owner of certain real property located in Stearns County, Minnesota, as described herein (the "Property"); and

WHEREAS, the Property is the location of release(s) of certain hazardous substances or pollutants and contaminants as defined by Minn. Stat. § 115B.02 and is part of a site known as the Burlington Northern Car Shop - Waite Park Superfund site (the "Site") which is listed on the State Permanent List of Priorities under Minn. Stat. § 115B.17, subd. 13 and the National Priority List under 42 U.S.C. § 9605; and

WHEREAS, the Minnesota Pollution Control Agency ("MPCA") issued a Request for Response Action regarding the Site pursuant to Minn. Stat. § 115B.17 on October 22, 1985, to the Burlington Northern Railroad Company (BN); and

WHEREAS, the MPCA has approved and intends to approve response actions that are reasonable and necessary to protect public health and the environment from releases at or from the Site; and

WHEREAS, the city of Waite Park has acquired a portion of the Site from BN and has agreed to place the Easement and Declaration of Restrictions and Covenants (Easement and Declaration) on the Property that it owns and which is hereinafter described to assure that response actions implemented at the Site continue to protect public health and the environment.

NOW, THEREFORE, pursuant to authority vested in the city of Waite Park by Minn. Stat. § 412.211 and (action or resolution) of the City Council on May 6, 1997, the city of

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Page 1 of 23

Waite Park ("Grantor") makes the following grant of easement and declaration as to limitations, restrictions and uses to which Property may be put:

1. Property.

As used herein, "Property" shall be the real property owned by the Grantor located in Stearns County, Minnesota, depicted and legally described on Exhibit 1 which is incorporated in this Easement and Declaration.

2. Purpose of Restrictions.

On the effective date of this Easement and Declaration, certain response actions have been implemented at the Property and other response actions remain to be implemented. Cleanup standards for soil and contaminants of concern for groundwater, presented in Exhibit 2, set by the MPCA in the July 14, 1996, Record of Decision for the Property assume that future uses of the Property are limited to assure continued protection of public heath and the environment.

3. Use Restrictions.

Subject to the terms and conditions of this Easement and Declaration and the reservation and covenants contained herein, the Grantor hereby declares and imposes the following restrictions ("Restrictions") on the use of the Property as follows:

(a) Use of the Property shall be limited to commercial and industrial use consistent with protection of public heath and the environment from releases of hazardous substances or pollutants or contaminants at the Property. The following uses of the Property are not allowed: day care centers; any form of educational facility; churches; social centers; hospitals; elder care facilities; nursing homes; recreational; and single family or multiple family dwellings.

(b) There shall be no extraction of ground water or excavation below the ground water table on the Property for any purpose without the prior written approval of the Commissioner of

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the MPCA or his successor (the "Commissioner"). The Commissioner's approval may include conditions which the Commissioner deems reasonable and necessary to protect public health or the environment, and shall not be unreasonably withheld. The ground water may be impacted by volatile organic compounds, polychlorinated biphenols and polynuclear aromatic hydrocarbons as specified in Exhibit 2. The MPCA is currently overseeing BN's ground water investigation and remediation activities.

(c) The following requirements must be followed regarding soils in each of the three areas of the Property as defined below:

(1) Area 1. Soil in Area 1 is believed to meet the MPCA soil cleanup standards for the commercial and industrial uses allowed under this Easement and Declaration. However, this soil may not be acceptable as clean fill off-site. Therefore, soil excavated from Area 1 on the Property shall not be removed from the Property or, if removed, shall be removed and disposed of in accordance with a Contingency Plan approved by the Commissioner. Area 1 comprises all portions of the Property not contained in Areas 2 and 3 as defined below.

(2) Area 2. Several portions of the Property exhibit soil contamination but meet the MPCA soil cleanup standards for commercial and industrial use. The location of these soils are collectively defined as Area 2, which is depicted in Exhibit 3 and 4. Any soil excavated in Area 2 shall be replaced in the excavation, used as fill on the Property, or, if removed, shall be removed and disposed of in accordance with a Contingency Plan approved by the Commissioner. Soil excavated in Area 2 and used as fill on the Property shall be covered with clean soil and vegetated or shall be buried under parking lots. The location of any Area 2 soil used as fill shall be surveyed and a copy of the survey provided to the MPCA.

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(3) Area 3. Area 3 contains soil that exceeds the MPCA soil cleanup standards (Exhibit 2) and is currently being addressed by BN with the MPCA's oversight. Prior to BN's completion of response actions in this area there shall be no disturbance or alteration on, above, or beneath Area 3 of any nature whatsoever, specifically including, but not limited to, grading, excavation, boring, drilling or construction without the prior written approval of the Commissioner. Area 3 is that portion or the Property located within 150 feet radius of Test Trench 3 (TT3), as depicted in Exhibit 4 and 4a.

The Commissioner's approval of any proposed actions or contingency plans may include conditions which the Commissioner deems reasonable and necessary to protect public health or the environment, and shall not be unreasonably withheld.

4. Covenants.

The Grantor hereby covenants that the Property shall not be held, transferred, sold, conveyed, occupied, altered, or used in violation of the Restrictions set forth in Section 3 of this Easement and Declaration.

5. Reservations.

Nothing contained in this Easement and Declaration shall in any way prohibit, restrict or limit the Grantor from fully conveying, transferring, occupying or using the Property for all purposes not inconsistent with the Restrictions.

6. Grant and Conveyance to MPCA: Right of Entry.

Subject to the terms and conditions of this Easement and Declaration, the Grantor hereby grants and conveys to the MPCA and its successors, MPCA's employees, contractors and agents, the right to enter the Property to take or oversee implementation of reasonable and necessary response actions on the Property pursuant to Minn. Stat. §§ 115B.01 to 115B.18 and to enforce and verify compliance with the Restrictions set forth in Section 3 of this Easement and

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Declaration. The Commissioner agrees that in exercising this right, the Commissioner shall provide reasonable notice to the then-current owner, enter at reasonable times, and to avoid unreasonable interference with any uses of the Property that are in compliance with the Restrictions.

7. Amendment.

This Easement and Declaration and the covenants, grants and Restrictions herein continue until terminated, modified released and/or amended with the written consent of the Commissioner or his successor, such consent not to be unreasonably withheld. Notwithstanding the foregoing, this Easement and Declaration and the covenants, grants and Restrictions set forth herein may be terminated, modified, released and/or amended upon the occurrence and satisfaction of the following conditions:

(a) soil or ground water sampling is conducted on the Property with prior written notice to and in accordance with a plan approved by the MPCA, such approval not to be unreasonably withheld; and

(b) based on such samples the MPCA determines that the soil/ground water/surface waters no longer pose a potential threat to human health and that disturbance of such soil or ground water will not hinder any biodegradation of any remaining contamination.

In the event of a termination, modification, release and/or amendment of this Easement and Declaration, the Commissioner, within 60 days after receipt of written request from the owner of the Property, shall execute an instrument in recordable form, terminating, releasing, modifying and/or amending this Easement and Declaration.

8. Binding Effect.

The Restrictions declared and the rights and interest granted under this Easement and Declaration shall run with the Property and bind the Grantor, its successors or assigns, all present

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or future owners of the Property, and all parties who now or hereafter have or hold any right, title or interest in or to the Property.

9. Action By Commissioner.

Where this Easement and Declaration of Restrictions authorizes or requires an action by the MPCA or its successors, the action is effective if taken by the MPCA Commissioner or his successor(s).

In Witness Whereof, this instrument has been executed on the day and year first above written.

The City of Waite Park

By _____
Richard Miller
Its Mayor

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 9th day of May, 1997, by Richard Miller, the Mayor of the City of Waite Park, a municipal corporation under the laws of the State of Minnesota, on behalf of said municipal corporation.

_____
Notary Public

DEBRA L. SOLEM
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

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Accepted on behalf of
Minnesota Pollution Control Agency

By: _____
Peder A. Larson
Commissioner

STATE OF MINNESOTA )
)SS.
COUNTY OF RAMSEY )

The foregoing instrument was acknowledged before me this 12 day of May, 1997, by Peder A. Larson, the Commissioner of Minnesota Pollution Control Agency, a Minnesota body politic, on behalf of the State of Minnesota.

SUSAN M. EICHHORST
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

Susan M. Eichhorst
Notary Public

This document drafted by:

Alan C. William
Assistant Attorney General
900 NCL Tower
445 Minnesota Street
St. Paul, Minnesota 55101
(612) 296-7200

Attachments

Exhibit 1. Figure of Property and Land Description

Exhibit 2. Table 1: Soil Contaminants of Concern and Soil Remediation Levels;

Table 2: Ground Water Contaminants of Concern and Ground Water Monitoring Requirements.

Table 1 and 2 from July 14, 1996, Record of Decision

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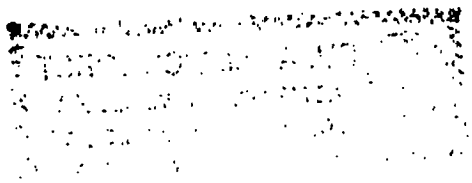
Exhibit 3. Impacted Soil. January 10, 1997, Braun Intertec figure depicting sulfur soils: completed boundaries for Area C lagoon excavations - soil impacted with CaOH, PCBs and Lead may exist along the utility corridor on the northern boundary of Area C lagoon excavation; and Area B Pond.

Exhibit 4 and 4a. August 8, 1996, and March 26, 1997, Remediation Technologies Inc. figure depicting Impacted Soil and Restricted Area



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Attachments

Exhibit 1. Figure of Property and Land Description

Exhibit 2. Table 1: Soil Contaminants of Concern and Soil Remediation Levels:

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Exhibit 4 and 4a. August 8, 1996 and March 26, 1997 Remediation Technologies Inc. figure depicting Impacted Soil and Restricted Area

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AD NUMBER 138)




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Page 10 of 23

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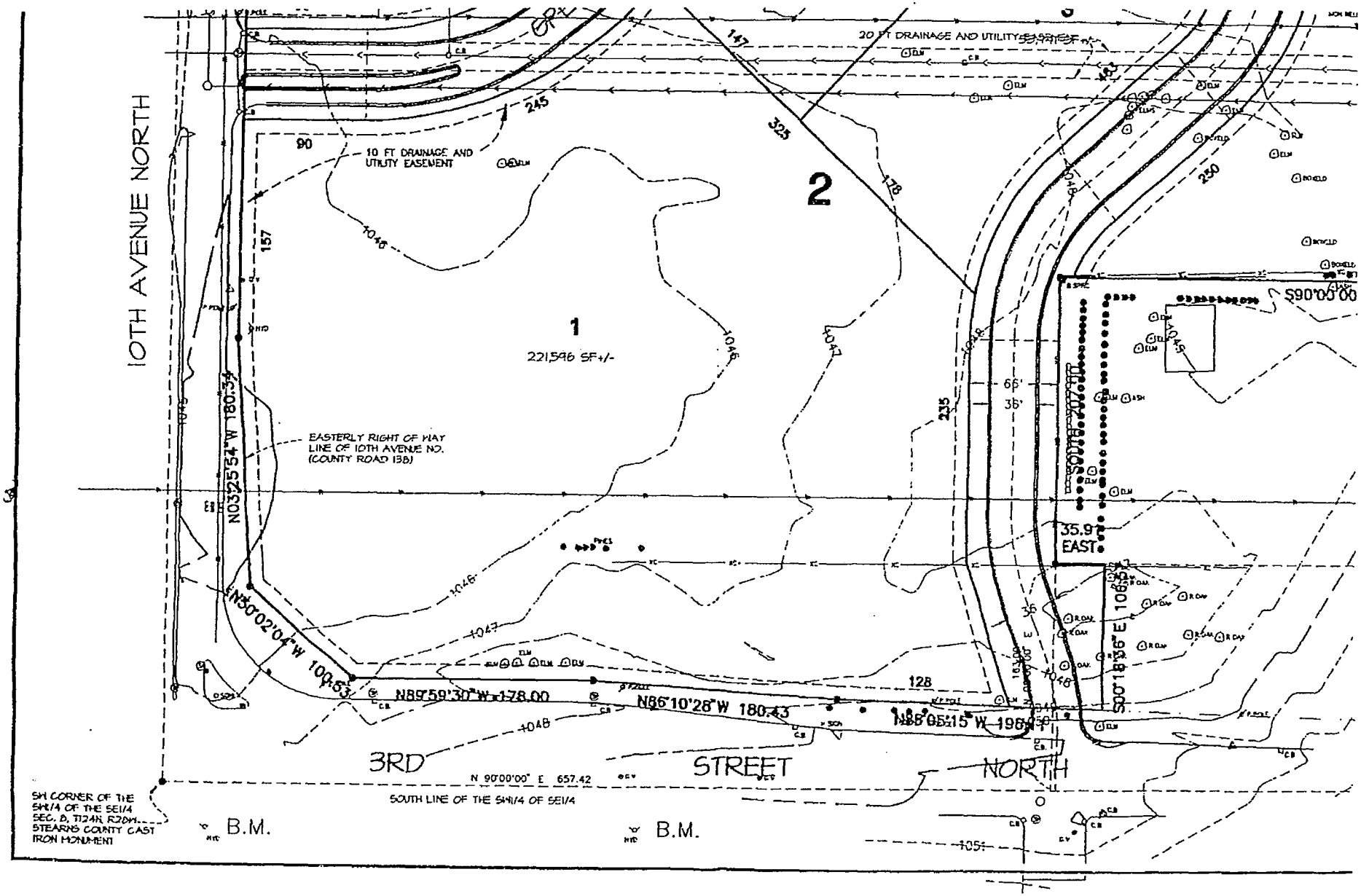


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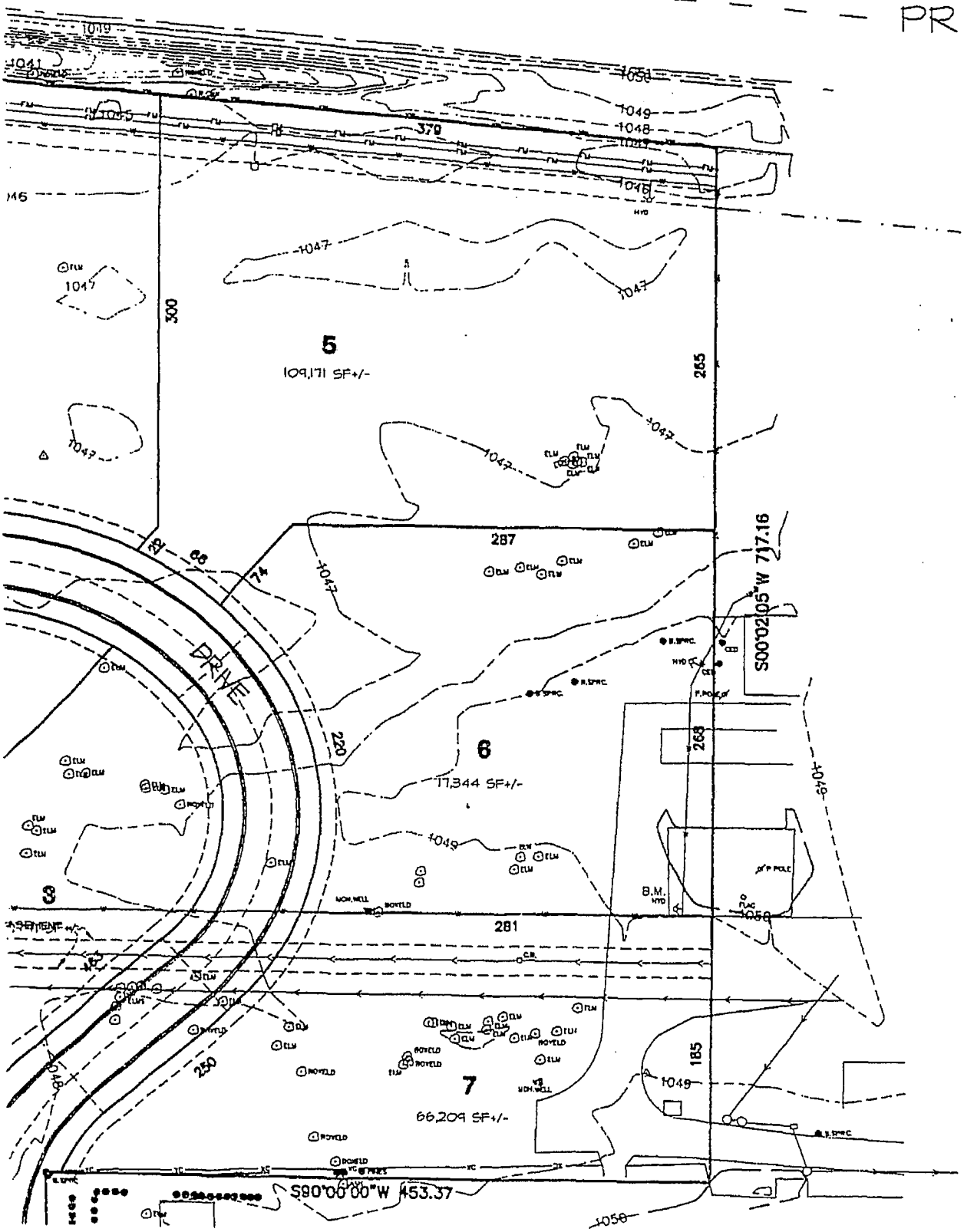
# WEST RIVE

OAD

PR

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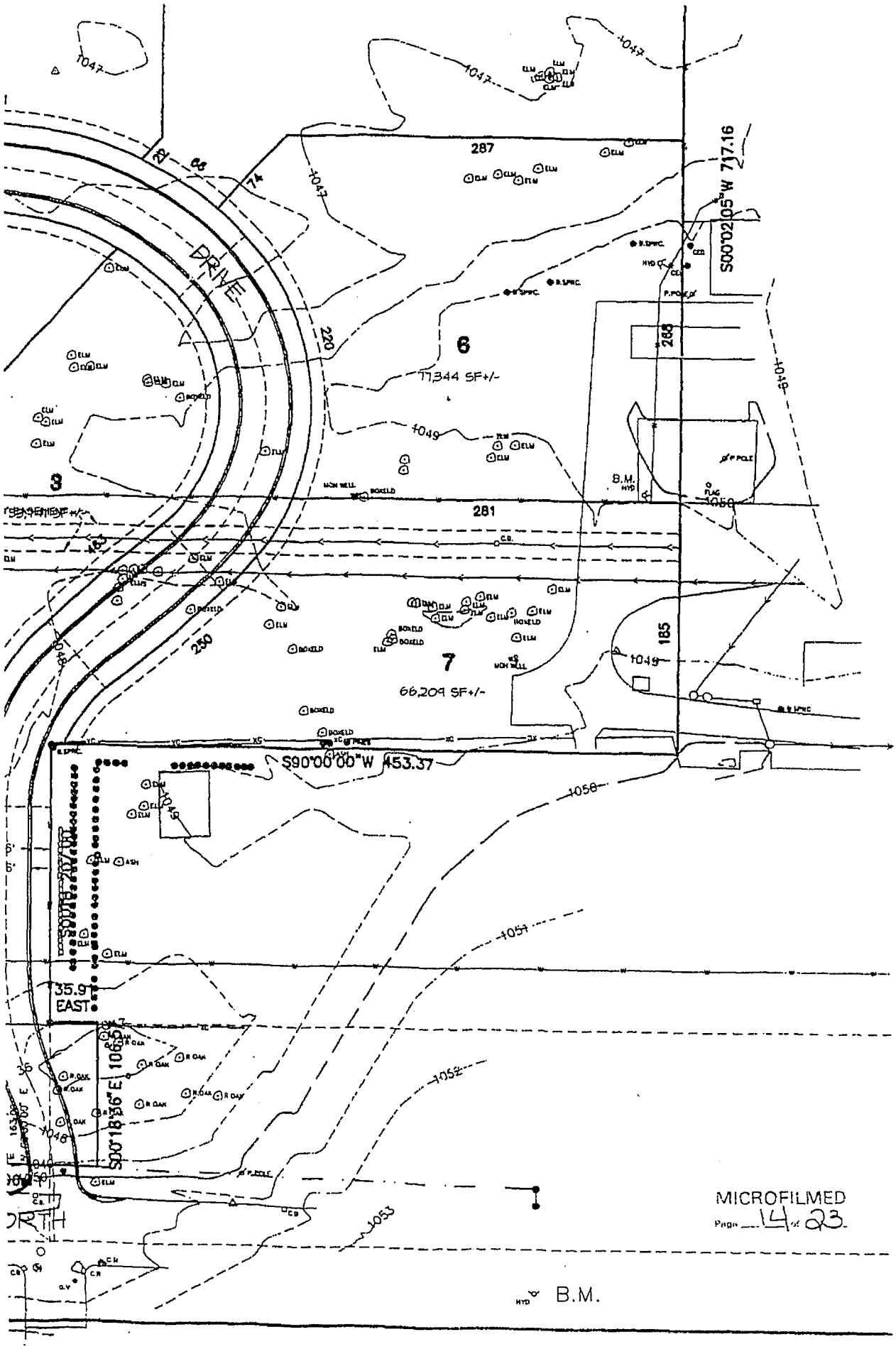


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# EST RIVER BUSINESS PARK

## PRELIMINARY PLAT

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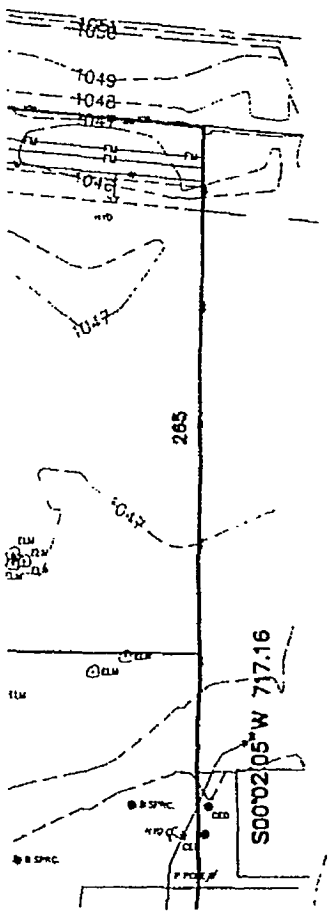
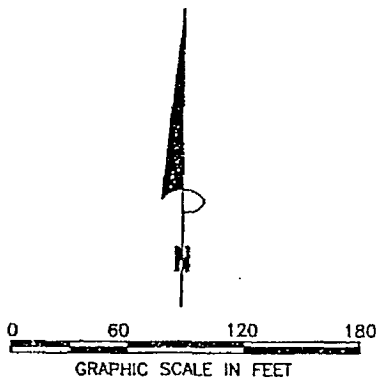


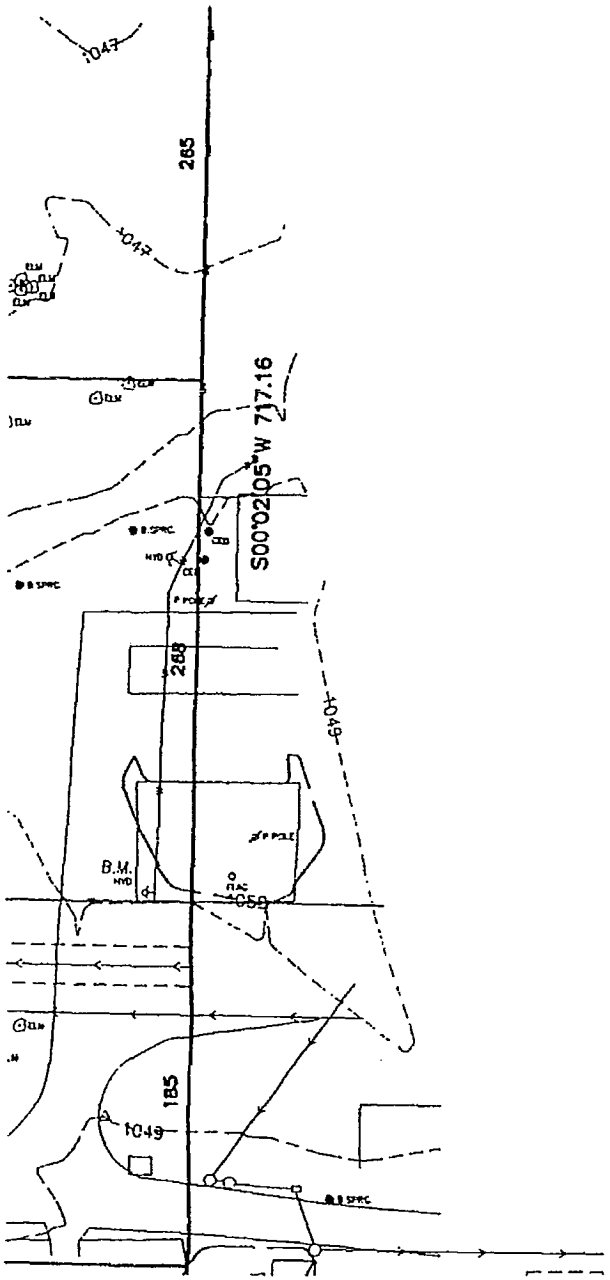

OWNER:
The City of Waite Park
19 13th Avenue North
Waite Park, MN 56387

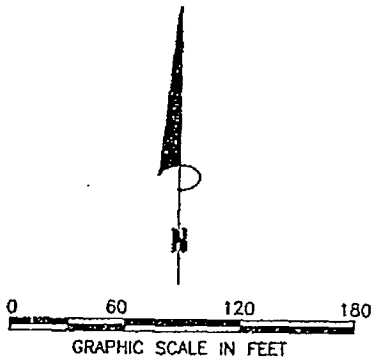
DEVELOPER

| REVISIONS | 20 MARCH 1996 |
|---|---|
| | FEBRUARY 1997 |
| | |
| | |
| | |

DATE: 15 MARCH 1996
DRAWN BY: STROEING
CHECKED BY: WILLIAMSON
SURVEY BY:

AND ASSOCIATES, INC.
SAINT GERMAIN
), MN 56301

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*OWNER:*
The City of Waite Park
19 13th Avenue North
Waite Park, MN 56387

*DEVELOPER:*
R.A. Morton and Associates, Inc.
821 West St. Germain
St. Cloud, MN 56301

LAND DESCRIPTION:

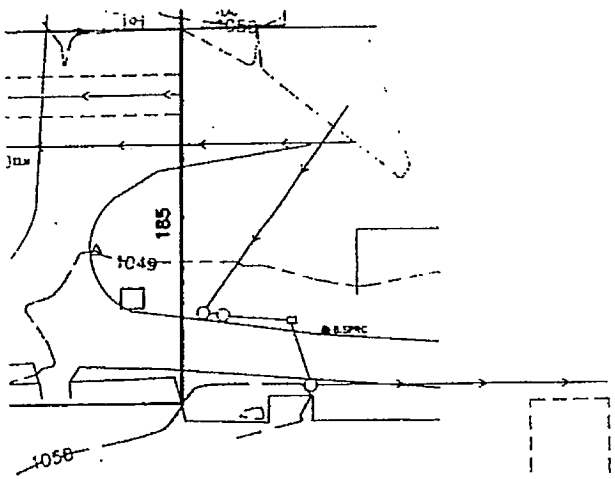
That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, Stearns County, Minnesota described as follows: Commencing at the southwest corner of the said Southwest Quarter of the Southeast Quarter; thence North 00 degrees 00


CENTENNIAL PLAZA
18 8TH STREET NORTH
. CLOUD, MN 56303
EPHONE 320.251.4553
LECOPY 320.251.6252


CLIENT

**R.A. MORTON AND ASSOCIATES, INC.**
821 WEST SAINT GERMAIN
ST. CLOUD, MN 56301

DATE:
DRAW.
CHECK
SURV.




B.M.

MICROFILMED
17 23

LAND DESCRIPTION:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, Stearns County, Minnesota described as follows: Commencing at the southwest corner of the said Southwest Quarter of the Southeast Quarter; thence North 90 degrees 00 minutes 00 seconcs East, along the south line of the said Southwest Quarter of the Southeast Quarter, a distance of 657.42 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the actual point of beginning; thence North 90 degrees 00 minutes 00 seconds East a distance of 35.91 feet; thence South 00 degrees 18 minutes 56 seconds East a distance of 106.57 feet to the northerly right of way line of 3rd Street North; thence North 88 degrees 05 minutes 15 seconds West a distance of 196.11 feet; thence North 86 degrees 10 minutes 28 seconds West, along said right of way line, a distance of 180.43 feet; thence North 89 degrees 59 minutes 30 seconds West, along said right of way line, a distance of 178.00 feet; thence North 50 degrees 02 minutes 04 seconds West, along said right of way line, a distance of 100.53 feet to the easterly right of way line of 10th Avenue North (County Road Number 138); thence North 03 degrees 25 minutes 54 seconds West, along said right of way line, a distance of 180.34 feet; thence North 00 degrees 22 minutes 57 seconds East a distance of 857.56 feet to the southerly right of way line of Burlington North Railroad; thence South 85 degrees 06 minutes 57 seconds East a distance of 1057.20 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 717.16 feet; thence South 90 degrees 00 minutes 00 seconds West a distance of 453.37 feet; thence South 00 degrees 00 minutes 00 seconds West a distance of 207.00 feet to the point of beginning.

Reserving a perpetual 20.00 foot drainage easement over, under and across said tract. The centerline of said 20.00 foot easement begins on the west line of said tract distant 654.75 feet south of the northwest corner of said tract; thence east to a point on the east line of said tract distant 564.79 feet south of the northeast corner of said tract and terminate said easement.

Also reserving a perpetual 42.00 foot utility easement over, under and across the north 42.00 feet thereof.

Subject to a 30 feet perpetual easement to ABB Power Distribution, Inc. over the north 30.00 feet thereof and said easement to terminate 9/2008.

EXHIBIT 1

Bonestroo Williamson Kotsmith
Engineers • Architects Surveyors
Saint Cloud, Minnesota
CENTENNIAL PLAZA
2008 8TH STREET NORTH
ST. CLOUD, MN 56303
TELEPHONE 320.251.4553
TELECOPY 320.251.6252

CLIENT

SHT. NO.
1 of 1

WK FILE NUMBER
96217

Table 1

Revised 1/28/94

# Soil Contaminants of Concern
# Soil Remediation Levels
# for Lagoons and Sandblast Sands
# Burlington Northern Car Shop Site, Waite Park, Minnesota

| Matrix/Compound | Concentrations Detected in the Soils (1) | | Background (3) | Remediation Level (4) | | |
|---|---|---|---|---|---|---|
| | Operable Unit 1 Lagoons min/max mg/kg | Operable Unit 2 Sandblast Sands (2) min/max mg/kg | Concentrations Surface Soils min/max(avg) mg/kg | Unrestricted Land Use mg/kg | Commercial/ Industrial Land Use mg/kg | Confirmation Sampling Methods |
| Metals | | | | | | |
| Arsenic (c) | 0.6/42 | 0.53/18 | 1.2/5.7 (3.5) | 10 | 20 | 6010/7060 |
| Cadmium | 0.9/4.9 | 0.5/2.8 | ND | 10 | 270 | 6010/7130 |
| Lead | 8.5/120,000 | 5.3/17,000 | 14/170 (38.5) | 500 | 1000 | 6010/7420 |
| Semi-Volatile Organic Compounds (SVOCs) | | | | | | |
| Anthracene | NA | NA | 0.065/1 (0.227) | NGA | NGA | 8270 |
| Benzo(ghi)perylene | NA | NA | ND | NGA | NGA | 8270 |
| Fluoranthene | NA | NA | 0.094/4.6 (0.834) | NGA | NGA | 8270 |
| Fluorene | NA | NA | 0.062/0.12 (0.033) | NGA | NGA | 8270 |
| Naphthalene | NA | NA | 0.027/0.031 (0.011) | NGA | NGA | 8270 |
| Phenanthrene | NA | NA | 0.058/3 (0.543) | NGA | NGA | 8270 |
| Pyrene | NA | NA | 0.068/2.7 (0.499) | NGA | NGA | 8270 |
| total cPAHs (c) | NA | NA | ND/23 (4.0) | NGA | NGA | 8270 |
| Polychlorinated Biphenols (PCBs) | | | | | | |
| PCBs, total (c) | ND/570 | NA | NA | 1 | 4 | 8080 |

(1) Presents minimum and maximum numbers detected during investigative studies.

(2) Operable Unit 2 also includes the contaminated dirt floor of the Paint Building.

The minimum/maximum concentrations of lead detected in the soils from the dirt floor of the Paint Building are 900/28,000 mg/kg. The detected concentrations for TCLP soil analysis for lead is 4.9/9.6. The minimum/maximum concentrations of cadmium detected in the dust samples from the Paint Building are ND/160 mg/kg. The detected concentrations for TCLP soil analysis for cadmium is <0.001.

(3) Represent Site-specific background concentrations developed during Site investigations.

(4) Unrestricted land use applies to Area A. Industrial land use applies to Areas B through H.

(c) = carcinogenic

ND = Not Detected

NA = Not Analyzed

NGA = No Goal Assigned. A goal was not assigned at this time do to lack of analysis. A goal may be assigned based on the results of confirmation sampling.

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EXHIBIT 2

# Ground Water Contaminants of Concern
## Ground Water Monitoring Requirements
## Burlington Northern Car Shop Site, Waite Park, Minnesota

| Matrix/Compound | Concentrations Detected in the Ground Water (1) | | | Minnesota Background Concentrations (2) | RAL (3) | MCL (4) | HRL (5) | Aquatic Life Stand. M.S. (8) | Ground Water Monitoring Methods |
|---|---|---|---|---|---|---|---|---|---|
| | Area A Lagoon min-max ug/l | Area C Lagoon min-max ug/l | Other min-max ug/l | ug/l | ug/l | ug/l | ug/l | ug/l | |
| *Metals* | | | | | | | | | |
| Arsenic (c) | 7.0/17 | ND | ND | 1 to 56 | 0.2 | 50 (7) | | 360 | 7060 |
| Cadmium | ND | ND | ND | 0.005 to 21 | 4 | 5 | 4 | 133 | 7131/6010 |
| Lead | ND | 31/31 | ND | .1 to 1900 | 20 | 15 | | 388 | 7421 |
| Volatile Organic Compounds (VOCs) | | | | | | | | | |
| Tetrachloroethene (PCE) | 1/1 | ND | 0.1/61 | -- | 7 | 5 | | 428 | 465D |
| Trichloroethene (TCE) | 0.2/3.0 | ND | 0.1/100 | -- | 30 | 5 | | 6988 | 465D |
| *Semi-Volatile Organic Compounds (SVOCs)* | | | | | | | | | |
| Anthracene | ND | ND | 0.15/19 | -- | 2000 | | 2000 | 1.6 | 8270mod |
| Fluoranthene | 0.36/0.36 | 0.15/0.48 | 0.1/4.0 | -- | 300 | | | 199 | 8270mod |
| Fluorene | ND | 0.2/1.3 | 0.25/49 | -- | 300 | | | | 8270mod |
| Naphthalene | 1.7/1.7 | ND | 0.7/740 | -- | 30 | | | | 8270mod |
| Phenanthrene | ND | 0.42/1.4 | 0.27/40 | -- | | | | 59 | 8270mod |
| Pyrene | 0.34/0.34 | .34/2.2 | 0.15/14 | -- | 200 | | 200 | | 8270mod |
| total cPAHs (c) | ND/3.2 | ND/16.1 | ND/73.8 | -- | 0.03 | 0.3(BaP) | | | 8270mod |
| total nPAHs | ND/5.8 | ND/16.2 | ND/1425 | -- | 0.3 | | | | 8270mod |
| Polychlorinated Biphenols (PCBs) | | | | | | | | | |
| PCBs, total (c) | ND/3.3 | 2.8/220 | ND | -- | | 0.5 | | 2 | 8080 |

*Footnotes;*

(1) Where minimum and maximum numbers are the same, the compound was only detected once.

(2) Minnesota Background Concentrations from the Ambient Network, 1992, developed by the MPCA, GWSW Program Development Section.

*(3) Minnesota Department of Health (MDH) Recommended Allowable Limits (RALs) for Drinking Water. RALs are health based and apply primarily to private water supplies,* for which there are no standards regulating levels of drinking water contaminants.

(4) Maximum Contaminant Level. Maximum permissible level of a contaminant in water which is delivered to any user of a public water system. The MCLs may not be health based.

(5) Health Risk Limit numbers are applied to substances found to degrade Minnesota ground water. HRLs are health based and will supersede RALs where appropriate.

(8) Aquatic Life Standards, Maximum Standard, shall apply to the point where surface water meets ground water. For this Site, the ground water monitoring well closest to the Sauk river was chosen. A new well, installed at the point where ground water meets surface water, is an acceptable replacement.

*(7) The MCL for Arsenic is 50 ug/l. According to Charles Abernathy, EPA, the 50 ug/l is based on an incorrect assumption of 900 ug/day dietary intake, the assumption should be 40 to 60 ug/day.*

(c) = carcinogenic

*ND = not detected*

*NA = not analyzed*

(BaP) = Benzo (a)pyrene

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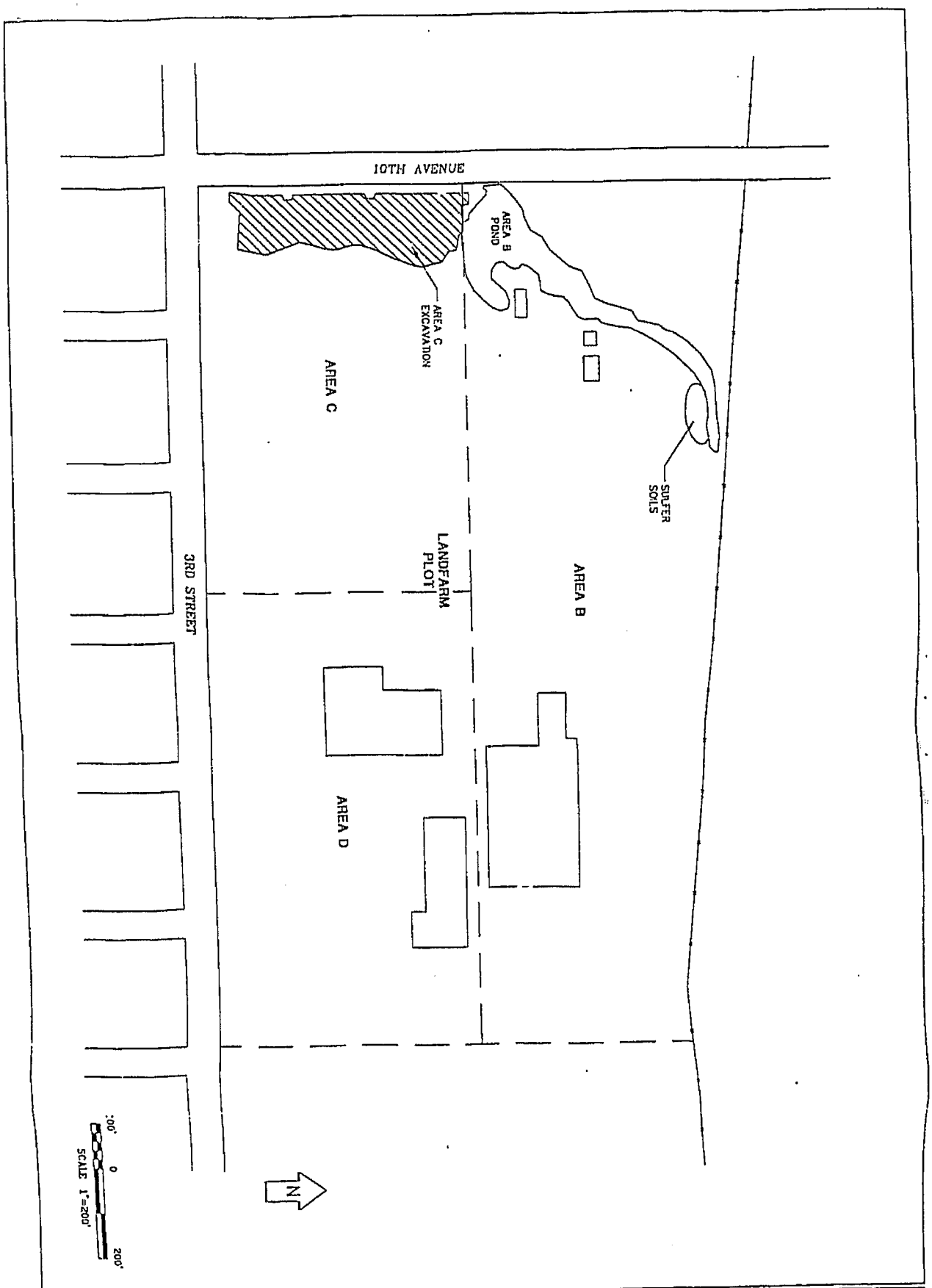
EXHIBIT 2



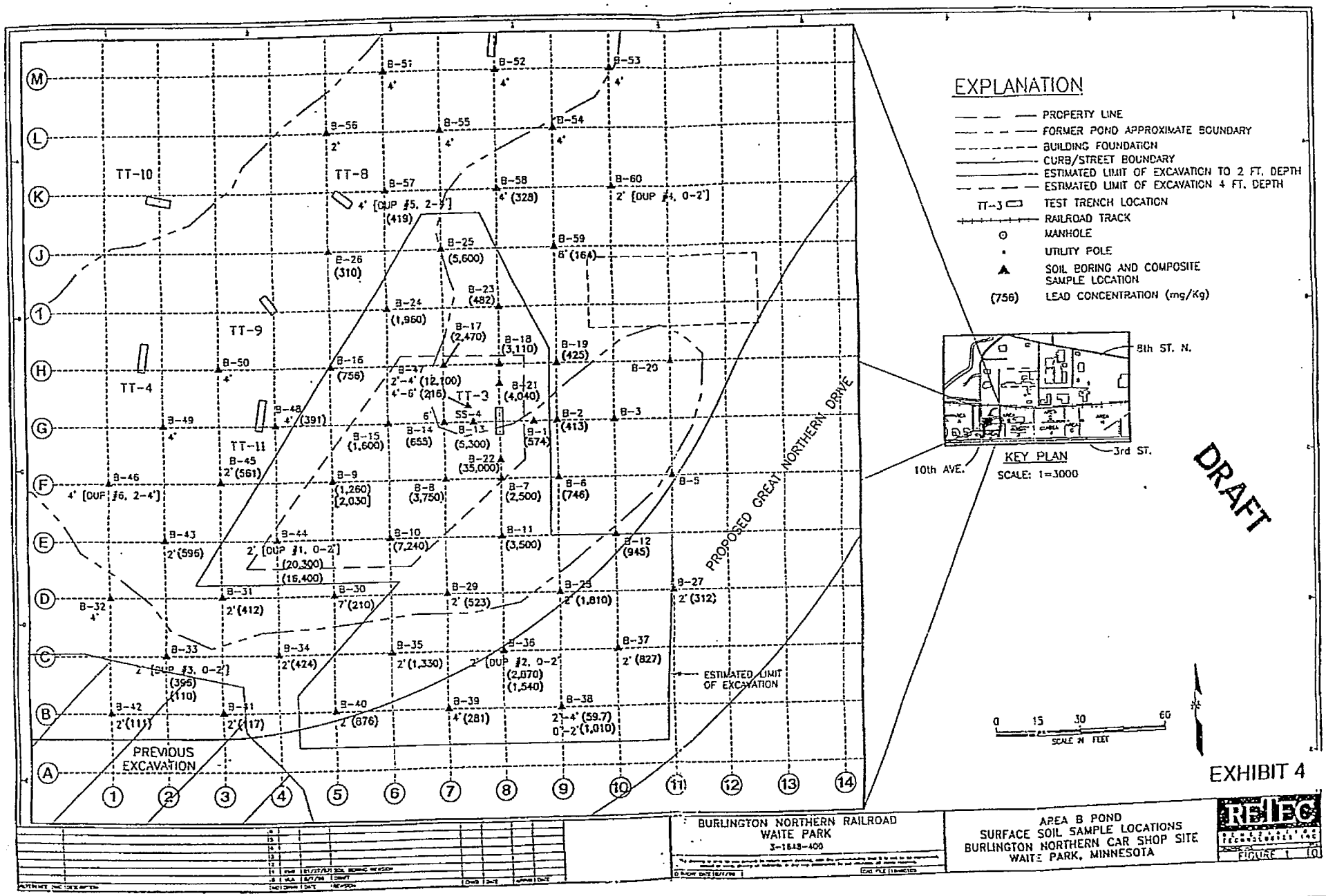

| FIGURE NO. 2 | INT | | DATE | |
|---|---|---|---|---|
| | DRAWN BY: | GMG | 01-10-97 | |
| | APP'D BY: | RJ | 01-10-97 | |
| | JOB NO. | CMXX-9C-0332 | | |
| | DWG. NO. | MX60332A | SHEET 1 | OF 1 |
| | SCALE | AS SHOWN | | |

AREA B POND AND AREA C EXCAVATION LOCATIONS
PROPOSED ACTIONS REPORT
WEST RIVER BUSINESS PARK
WAITE PARK, MINNESOTA

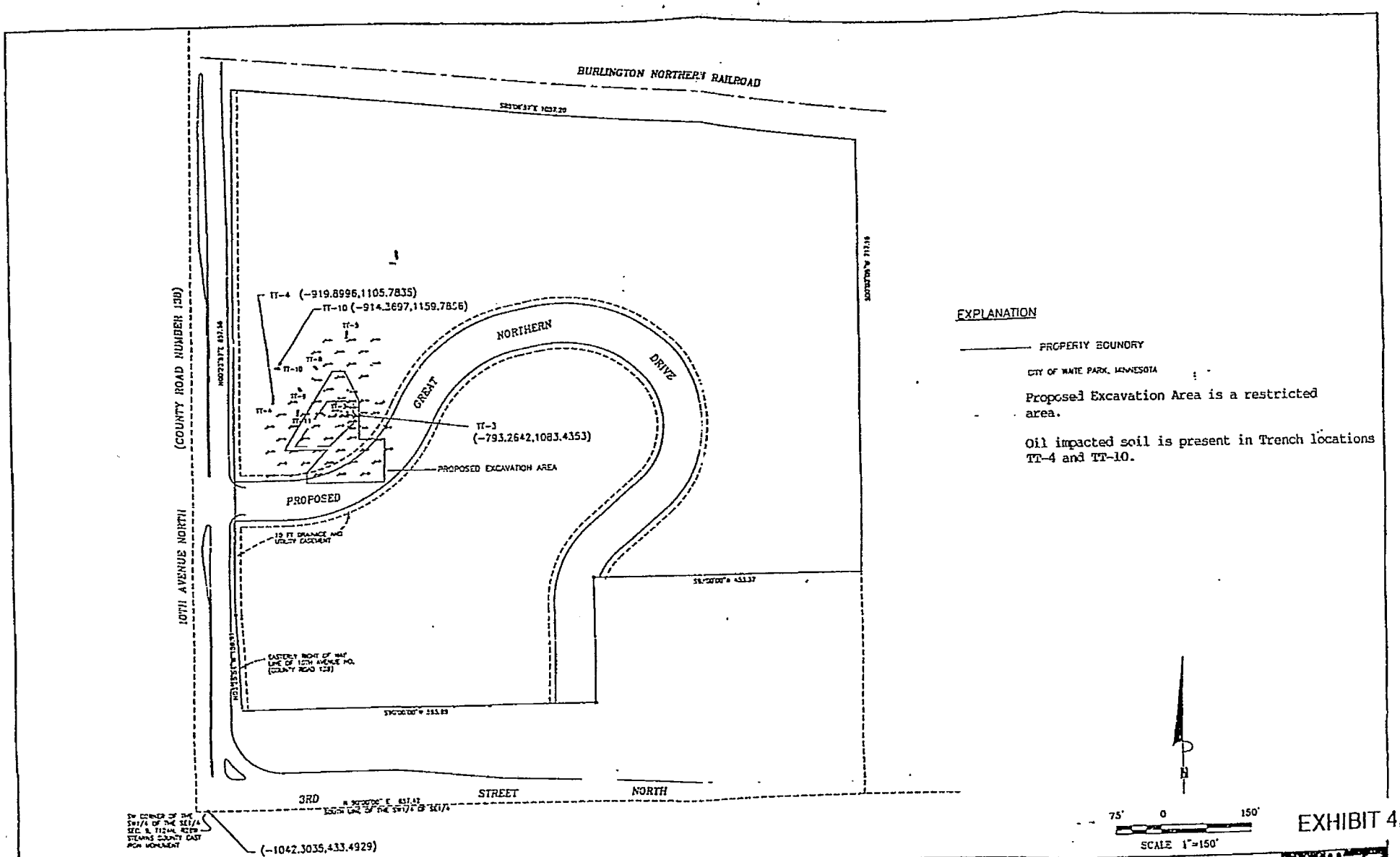
BRAUN INTERTEC

EXHIBIT 3

MICROFILMED
Page 20 of 23




MICROFILMED
Page 21 of 23




MICROFILMED
Page 22 of 23

845329

97 MAY 16 PM 2:35

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY [signature] DEPUTY

MICROFILMED
Page 23 of 23

845330

# QUIT CLAIM DEED

Corporation to Corporation or Partnership

No delinquent taxes and transfer entered; Certificate of Real Estate Value (X) filed ( ) not required. Certificate of Real Estate Value No. _____
MAY 16 1997

County Auditor

by

845330

97 MAY 16 PM 2:36

COUNTY RECORDER
STEARNS CO. MN
PATRICIA H. OVERMAN
BY DEPUTY

STATE DEED TAX DUE HEREON $660.00

Date: May 13, 1997

FOR VALUABLE CONSIDERATION, the City of Waite Park, Grantor, a municipal corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to West River Business Park Partnership, L.L.P., a Minnesota limited liability partnership, Grantee, real property in Stearns County, Minnesota, described as follows:

That part of the Southwest Quarter of the Southeast Quarter, Section 8, Township 124 North, Range 28 West, Stearns County, Minnesota, described as follows: Commencing at the southwest corner of said Southwest Quarter of the Southeast Quarter; thence North 90 degrees 00 minutes 00 seconds East, along the south line of said Southwest Quarter of the Southeast Quarter, a distance of 657.42 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the actual point of beginning; thence North 90 degrees 00 minutes 00 seconds East a distance of 35.91 feet; thence South 00 degrees 18 minutes 36 seconds East a distance of 106.53 feet to the northerly right-of-way line of 3rd Street North; thence North 88 degrees 05 minutes 34 seconds West, along said right-of-way line, a distance of 196.01 feet; thence North 86 degrees 11 minutes 09 seconds West, along said right-of-way line, a distance of 180.40 feet; thence North 90 degrees 00 minutes 00 seconds West, along said right-of-way line, a distance of 178.00 feet; thence North 50 degrees 02 minutes 12 seconds West, along said right-of-way line, a distance of 100.55 feet to the easterly right-of-way line of County Road Number 138 (10th Avenue North); thence North 03 degrees 25 minutes 54 seconds West, along said right-of-way line, a distance of 180.36 feet; thence North 00 degrees 22 minutes 57 seconds East a distance of 857.58 feet to the southerly right-of-way line of Burlington

MICROFILMED

Northern Railroad; thence South 85 degrees 06 minutes 57 seconds East, along said southerly right-of-way line, a distance of 1057.20 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 717.16 feet; thence South 90 degrees 00 minutes 00 seconds West a distance of 453.37 feet; thence South 00 degrees 00 minutes 00 seconds West a distance of 207.00 feet to the point of beginning.

Reserving a perpetual 20.00 foot drainage easement over, under and across said tract. The centerline of said 20.00 foot easement begins on the west line of said tract distant 654.75 feet south of the northwest corner of said tract; thence east to a point on the east line of said tract distant 564.79 feet south of the northeast corner of said tract and terminate said easement.

Also reserving a perpetual 42.00 foot ingress, egress and utility easement over, under and across the north 42.00 feet thereof.

Subject to a 30 foot perpetual easement to ABB Power Distribution, Inc. over the north 30.00 feet thereof and said easement to terminate 9/2008.

(The real property described above is hereinafter referred to as the "Development Property".)

The seller certifies that the seller does not know of any wells or on-site sewage treatment systems on the described real property.

To have and to hold the same, together with all the hereditaments and appurtenances belonging or in anyway appertaining, to the said Grantee, its successors and assigns, forever, provided:

SECTION 1.

It is understood and agreed that this Deed is subject to the covenants, conditions, restrictions and provisions of a Development Agreement entered into between the Grantor and the Grantee on the 12th day of March, 1996, and Amendment No. 1 to Development Agreement entered into between the Grantor and the Grantee on the 8th day of April, 1997 (hereinafter jointly referred to as the "Agreement").

It is specifically agreed that the Grantee shall promptly begin and diligently prosecute to completion the development of the Development Property through the construction of the Minimum Improvements on the Development Property as provided in the Agreement.

Promptly after completion of any portion of the Minimum Improvements in accordance with the provisions of the Agreement, the Grantor will furnish the Grantee with an appropriate instrument so certifying. Such certification by the Grantor shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants of the



MICROFILMED
Page 2 of 4

Agreement and of this Deed with respect to the obligation of the Grantee, and its successors and assigns, to construct the portion of the Minimum Improvements so specified and the dates for the beginning and completion thereof. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Grantee to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the purchase of the Development Property hereby conveyed or the improvements, or any part thereof.

All certifications provided for herein shall be in such form as will enable them to be recorded with the County Recorder, Stearns County, Minnesota. If the Grantor shall refuse or fail to provide any such certification in accordance with the provisions of the Agreement and this Deed, the Grantor shall, within thirty (30) days after written request by the Grantee, provide the Grantee with a written statement indicating in adequate detail in what respects the Grantee has failed to complete the 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 Grantor, for the Grantee to take or perform in order to obtain such certification.

**SECTION 2.**

In the event the Grantee herein shall, prior to the recording of the certificate of completion, hereinabove referred to:

(a) fail to begin construction of the improvements provided for in this Deed and the Agreement in conformity with the Agreement; or

(b) default in or violate its obligations with respect to the construction of the improvements provided for in this Deed and the Agreement; or

(c) fail to comply with any of its covenants under the Agreement and fails to cure any such noncompliance within the time provided in the Agreement then the Grantor shall have the right to re-enter and take possession of that portion of the Development Property on which a portion of the Minimum Improvements have not been constructed and to terminate and revest in the Grantor, subject to the conditions placed on such revesting by the Agreement, the estate conveyed by this Deed to the Grantee, its assigns or successors in interest, but only if the events stated in Section 2(a)-(c) have not been cured within the time periods provided in the Agreement or, the Developer does not provide assurances to the Grantor, reasonably satisfactory to the Grantor, that the events will be cured and will be cured as soon as reasonably possible.

**SECTION 3.**

It is intended and agreed that the above and foregoing agreements and covenants shall be covenants running with the land, and



MICROFILMED
Page 3 of 4

that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this deed, be binding, to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Grantor, its successors and assigns, and any successor in interest to the Development Property, or any part thereof against the Grantee, its successors and assigns, and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy of the Development Property or any part thereof.

CITY OF WAITE PARK

By _____
Richard Miller, Mayor

By _____
Jeffrey J. Baird, City Clerk/ Treasurer

Affix Deed Tax Stamp Here

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 13 day of May, 1997, by Richard Miller and Jeffrey J. Baird, the Mayor and the City Clerk/Treasurer of the City of Waite Park, a municipal corporation under the laws of the State of Minnesota, on behalf of said municipal corporation.

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

_____
Signature of person taking acknowledgment

THIS INSTRUMENT WAS DRAFTED BY:
Gordon H. Hansmeier - 40770
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, MN 56302-1433
Telephone: (320) 251-1055
n:\city\waite2\ac050997.701

Tax statements for the real properly described in this instrument should be sent to:
West River Business Park Partnership, L.L.P.
c/o R.A. Morton & Associates
821 West St. Germain Street
St. Cloud, MN 56301

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

27 TRES10 | 970013990 DEED TX * PAID $560.00 | 5/16/1997 13:33:17



MICROFILMED
Page 4 of 4

5/ 1.50

845331

# EASEMENT

This indenture made this 13th day of May, 1997, between Waite Park Manufacturing, Inc., a Minnesota corporation, party of the first part, and the City of Waite Park, a municipal corporation, of the County of Stearns and State of Minnesota, party of the second part.

WITNESSETH: That said party of the first part in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration to it in hand paid by said party of the second part, receipt of which is hereby acknowledged, does hereby grant, bargain, quit claim and convey unto said party of the second part, its assigns, a 35 foot by 74 foot rectangular temporary construction easement over, under and across the Southeast Quarter, Section 8, Township 124 North, Range 28 West, Stearns County, Minnesota, described as follows:

> Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West along the south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 413.71 feet; thence North 89 degrees 36 minutes 13 seconds East 175.00 feet to the point of beginning of said rectangular easement; thence continue North 89 degrees 36 minutes 13 seconds East 74.00 feet; thence deflect left 90 degrees 00 minutes 35.00 feet; thence deflect left 90 degrees 00 minutes 74.00 feet; thence deflect left 90 degrees 00 minutes 35.00 feet to the point of beginning.

Said temporary construction easement to expire December 31, 1997.

TO HAVE AND TO HOLD said party of the second part, its assigns, survivor of said party and heirs of assigns of the survivor.

MICROFILMED
Page 1 of 2

IN TESTIMONY WHEREOF, the parties have hereunto set their hands the date and year first above written.

WAITE PARK MANUFACTURING, INC.

By _____
Its _____

THE CITY OF WAITE PARK, MINNESOTA

By _____
Richard Miller, Mayor

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

On this 13th day of May, 1997, before me, a notary public, personally appeared Patricia Murkin, to me personally known, who, being by me duly sworn did say that he/she is the Asst Secretary of Waite Park Manufacturing, Inc., a Minnesota corporation, and acknowledged said instrument to be the free act and deed of said corporation.

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

_____
Notary Public

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

On this 13 day of May, 1997, before me, a notary public, personally appeared Richard Miller, to me personally known, who, being by me duly sworn did say that he is the Mayor of the City of Waite Park, a municipal corporation, and acknowledged said instrument to be the free act and deed of said corporation.

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Gordon H. Hansmeier
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302-1433
Telephone: (320) 251-1055

845331

97 MAY 16 PM 2:36

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY _____ DEPUTY

n:\city\waite2\ac042897.251



MICROFILMED
Page 2 of 2

845793

VARIANCE NO. VAR-97-07

A VARIANCE FROM ARTICLE 22, SECTION 5.5 OF THE ST. CLOUD ZONING ORDINANCE, ORDINANCE #1305

WHEREAS, the Zoning Board of Appeals has received and considered, held a public hearing on May 6, 1997, and has approved a variance from Article 22, Section 5.5 (building height) of the St. Cloud Zoning Ordinance, Ordinance #1305, for the following property: Lots 3 and 4, Block 1, Foundry Addition, City of St. Cloud, Stearns County, State of Minnesota.

*The variance approval will allow two portions of a building addition to be at a height of 115'.*

*The variance approval is subject to the following condition:*

1. The site plan as approved by the Zoning Board of Appeals shall be the only approved site plan for the construction of the building addition.

THIS DOCUMENT DRAFTED BY:
Planning Office
City of St. Cloud
400 2nd St. So.
St. Cloud, MN 56301
(612) 255-7218

Tim Chirhart
Zoning Board Secretary

Gerald Hengel
Gerald Hengel
Assistant Planning Director

STATE OF MINNESOTA
COUNTY OF STEARNS
CITY OF ST. CLOUD
I, Gregg A. Engdahl, City Clerk of the City of St. Cloud, Minnesota, do hereby certify that the above and foregoing is an original document of a VARIANCE # VAR-97-07 approved by the Zoning Board of Appeals of the City of St. Cloud, Minnesota. WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. CLOUD, MINNESOTA, This the 21st day of May, 19 97

City Clerk
City of St. Cloud, MN

STATE OF MINNESOTA, COUNTY OF Stearns
The foregoing was acknowledged before me this 20th day of May, 1997, by Tim Chirhart, Zoning Board of Appeals Secretary, and Gerald Hengel, City of St. Cloud Ass't. Planning Director.

Debra A. Backes
Notary Public

DEBRA A. BACKES
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

MICROFILMED

845793

97 MAY 23 AM 11:46

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Laudenbach DEPUTY

MICROFILMED
Page 3 of 3

848216

EASEMENT

This indenture made this 11th day of JUNE, 1997, between The Burlington Northern and Santa Fe Railway Company, a Delaware corporation, Grantor, and the City of Waite Park, a municipal corporation, of the County of Stearns and State of Minnesota, Grantee.

WITNESSETH: That Grantor in consideration of the sum of $1.00 and other good and valuable consideration to it in hand paid by Grantee, receipt of which is hereby acknowledged, does hereby grant, bargain, quitclaim and convey unto the Grantee a 66.00 foot roadway and utility easement over, under and across the South Half of the Southeast Quarter (S 1/2 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota.

Said easement commences at the southeast corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the south line of said Section 8, a distance of 660.00 feet; thence North 00 degrees 00 minutes 00 seconds East 342.59 feet to the point of beginning of said easement and said easement lies 33.00 feet east and 33.00 feet west of the following line; thence North 00 degrees 02 minutes 05 seconds West, from said point of beginning, a distance of 97.30 feet to Point "A" and there terminate said 66.00 foot easement; thence beginning at Point "A" an easement that lies 33.00 feet east and 11.00 feet west of the following described line; thence North 00 degrees 02 minutes 05 seconds West, from said Point "A", a distance of 467.58 feet and terminate said easement.

The foregoing easement is made subject to all existing interests in the above-described premises to whomsoever belonging and of whatsoever nature, and any and all extensions thereof, including, but not limited to all leases, licenses and permits

MICROFILMED
Page 1 of 4

JAN-13-2010 13:03 STEARNS COUNTY AUDITORT 320 656 3916 P.08/11

previously granted by Grantor or its predecessors, pipelines, wire lines or cables, if any.

Grantee hereby agrees that all work performed in the construction, use, maintenance or improvement of the roadway shall be performed in a good and workmanlike manner and will not interfere with the operations of the Grantor, its contractors, lessees, licensees or others authorized by Grantor to use Grantor's property in the general area of the property subject to this Easement.

Grantee hereby agrees that the costs required to perform the above-described work shall not be assessed against the Grantor unless the improvement is beneficial to Grantor and Grantor agrees, in writing, to assume a share of said costs.

Grantee hereby agrees to indemnify and hold harmless Grantor from all lawful claims, demands, judgments, losses, and costs associated with injury or death arising out of the acts or omissions of the Grantee, its employees, contractors, licensees and invitees in its construction, use or maintenance of the roadway and any utilities on the easement. Grantee agrees to supervise any contractors so that said contractors comply with the same terms and conditions assumed by Grantee in this Easement.

Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance or future alteration of the roadway shall be made in such a manner as will provide adequate drainage of and from adjoining lands, the easement area, and Grantor's property; and wherever any such fill or embankment

MICROFILMED
Page 2 of 4

shall obstruct the drainage from Grantor's property, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve proper drainage, including, where necessary, constructing extensions of existing drains, culverts or ditches to preserve the present flow of drainage or other waters. All materials and workmanship shall be equally as good as those now existing.

Grantor does not warrant its title to said premises, not undertake to defend the Grantee in the peaceable possession, use or enjoyment thereof; and the grant herein made is subject to all outstanding rights or interests of others; including the lessees and licensees of the Grantor.

TO HAVE AND TO HOLD unto the Grantee for public use and for the purposes stated herein only.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands on the date and year first written above.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

By _____
Its General Director Real Estate

CITY OF WAITE PARK

By _____
Richard Miller
Its Mayor

MICROFILMED
Page 3 of 4

STATE OF ~~Minnesota~~ Texas )
) ss.
COUNTY OF ~~Stearns~~ Tarrant )

On this 11th day of June, 1997, before me, a notary public, personally appeared D.P. Schneider, to me personally known, who, being by me duly sworn, did say that he is the General Director Real Estate of The Burlington Northern and Santa Fe Railway Company, a corporation under the laws of the State of Delaware, and acknowledged said instrument to be the free act and deed of said corporation.

DORIS P. LODICS
MY COMMISSION EXPIRES
January 17, 2000

Doris P. Lodics
Notary Public

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 10th day of June, 1997, before me, a notary public, personally appeared Richard Miller, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the City of Waite Park, a municipal corporation, and acknowledged said instrument to be the free act and deed of said municipal corporation.

Gordon H. Hansmeier
Notary Public

n:\city\waite2\mc041597.251

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

THIS INSTRUMENT DRAFTED BY:
RAJKOWSKI HANSMEIER LTD.
Gordon H. Hansmeier - 40770
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, MN 56302-1433
(320) 251-1055

848216

97 JUN 26 PM 12:46

COUNTY RECORDER
STEARNS CO. MN
PATRICIA H. OVERMAN
BY [illegible] DEPUTY

MICROFILMED
PAGE 4 of 4

849902

EASEMENT

This indenture made this 15th day of July, 1997, between Waite Park Manufacturing, Inc., a Minnescta corporation, party of the first part, and the City of Waite Park, a municipal corporation, of the County of Stearns and State of Minnesota, party of the second part.

WITNESSETH: That said party of the first part in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration to it in hand paid by said party of the second part, receipt of which is hereby acknowledged, does hereby grant, bargain, quit claim and convey unto said party of the second part, its assigns, a 33.00 foot perpetual utility and roadway easement over, under and across part of the Southwest Quarter of the Southeast Quarter, Section 8, Township 124 North, Range 28 West, Stearns county, Minnesota, described as follows:

> Commencing at the southeast corner of said Section 8; thence North 90 degrees 00 minutes West along the south line of said Section 8, a distance of 1533.89 feet; thence North 00 degrees 02 minutes 05 seconds East 413.71 feet to the point of beginning of said easement; thence North 89 degrees 36 minutes 13 seconds East 33.00 feet; thence North 00 degrees 02 minutes 05 seconds East 264.66 feet; thence northerly along a tangential curve, concave to the west, radius 45.00 feet, central angle 43 degrees 28 minutes 23 seconds, 34.14 feet; thence North 00 degrees 02 minutes 05 seconds East, not tangent to said curve, 80.60 feet; thence North 89 degrees 57 minutes 55 seconds West 20.66 feet; thence South 00 degrees 02 minutes 05 seconds West 416.25 feet to the point of beginning.

TO HAVE AND TO HOLD said party of the second part, its assigns, survivor of said party and heirs of assigns of the survivor.

MICROFILMED
Page 1 of 3

IN TESTIMONY WHEREOF, the parties have hereunto set their hands the date and year first above written.

WAITE PARK MANUFACTURING, INC.

By _____
Its VICE PRESIDENT

THE CITY OF WAITE PARK, MINNESOTA

By _____
Richard Miller, Mayor

STATE OF MINNESOTA )
) SS.
COUNTY OF ~~STEARNS~~ HENNEPIN )

On this 10TH day of JULY, 1997, before me, a notary public, personally appeared PAUL LAGUE, to me personally known, who, being by me duly sworn did say that he/she is the VICE PRESIDENT of Waite Park Manufacturing, Inc., a Minnesota corporation, and acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public

PATRICK MURRAY
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES
JANUARY 31, 2000

STATE OF MINNESOTA )
) SS.
COUNTY OF STEARNS )

On this 15TH day of July, 1997, before me, a notary public, personally appeared Richard Miller, to me personally known, who, being by me duly sworn did say that he is the Mayor of the City of Waite Park, a municipal corporation, and acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public

GORDON H. HANSMEIER
NOTARY PUBLIC - MINNESOTA
STEARNS COUNTY
My Comm. Expires Jan. 31, 2000

THIS INSTRUMENT WAS DRAFTED BY:
Gordon H. Hansmeier
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302-1433
Telephone: (320) 251-1055

n:\city\waite\1997\ac062797.251

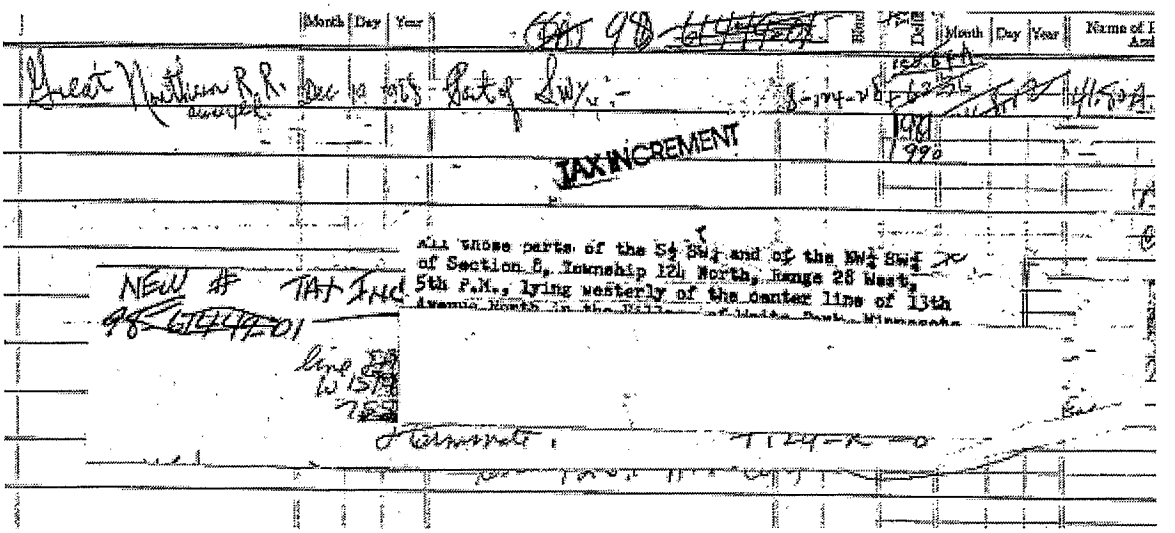
MICROFILMED

849902

97 JUL 21 PM 2:17

COUNTY RECORDER
STEARNS CO. MN
PATRICIA H. OVERMAN
BY D. Raudenbach DEPUTY

MICROFILMED
Page 3 of 3



| | Month | Day | Year | | | | Month | Day | Year | Name of [illegible] |
|---|---|---|---|---|---|---|---|---|---|---|
| Great Northern R.R. [illegible] | Dec | 10 | 1968 | Part of SW¼ | 8-124-28 | | | | | 41.50A |

TAX INCREMENT

All those parts of the S½ SW¼ and of the NW¼ SW¼ of Section 8, Township 124 North, Range 28 West, 5th P.M., lying westerly of the center line of 13th Avenue North in the Village of White Bear, Minnesota

NEW # TAX INC
98-61449-01

line [illegible]
W 15[illegible]
75[illegible]

Terminate: T124-R-0

850035

RECORDATION REQUESTED BY:

STEARNS COUNTY NATIONAL BANK
4191 2ND ST SO, PO BOX 7338
ST CLOUD, MN 56302

WHEN RECORDED MAIL TO:

STEARNS COUNTY NATIONAL BANK
4191 2ND ST SO, PO BOX 7338
ST CLOUD, MN 56302

SEND TAX NOTICES TO:

Park Press Quality Printing, Incorporated
P.O. Box 475
Waite Park, MN 56387

850035
97 JUL 22 PM 1:55

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Hildenbrand DEPUTY

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

# MODIFICATION OF MORTGAGE

THIS MODIFICATION OF MORTGAGE IS DATED JULY 10, 1997, BETWEEN Park Press Quality Printing, Incorporated (referred to below as "Grantor"), whose address is P.O. Box 475, Waite Park, MN 56387; and STEARNS COUNTY NATIONAL BANK (referred to below as "Lender"), whose address is 4191 2ND ST SO, PO BOX 7338, ST CLOUD, MN 56302.

MORTGAGE. Grantor and Lender have entered into a mortgage dated July 10, 1992 (the "Mortgage") recorded in Stearns County, State of Minnesota as follows:

RECORDED ON 7-16-92 AS DOCUMENT #0722920 IN THE OFFICE OF THE STEARNS COUNTY RECORDER

REAL PROPERTY DESCRIPTION. The Mortgage covers the following described real property (the "Real Property") located in Stearns County, State of Minnesota:

SEE ATTACHED LEGAL DESCRIPTION

The Real Property or its address is commonly known as 355 6th Avenue North, Waite Park, MN 56387. The Real Property tax identification number is 98-61600-30.

MODIFICATION. Grantor and Lender hereby modify the Mortgage as follows:

THE MATURITY DATE OF THIS MORTGAGE IS EXTENDED TO 7-10-2007.

CONTINUING VALIDITY. Except as expressly modified above, the terms of the original Mortgage shall remain unchanged and in full force and effect. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Mortgage (the "Note"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

Park Press Quality Printing, Incorporated

By: James J. Blommer
James J. Blommer, President

LENDER:

STEARNS COUNTY NATIONAL BANK

By:
Authorized Officer

MICROFILMED
Page 1 of 3

# EXHIBIT A

This EXHIBIT A is attached to and by this reference is made a part of each Deed of Trust or Mortgage, dated July 10, 1992, and executed in connection with a loan or other financial accommodations between STEARNS COUNTY NATIONAL BANK OF ALBANY and Park Press Quality Printing, Inc.

That part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 63.30 feet, thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8: thence North at right angles to said south line a distance of 370.00 feet and there terminating.

THIS EXHIBIT A IS EXECUTED ON JULY 10, 1992.

BORROWER:

Park Press Quality Printing, Inc.

By: _____
James J. Bloomer, President

LENDER:

STEARNS COUNTY NATIONAL BANK OF ALBANY

By: _____
Authorized Officer

LASER PRO (tm) Ver. 3.15 (d) 1992 CFI Bankers Service Group, Inc. All rights reserved. [MN-G60 PARK3.LN]

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Page 3 of 3

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COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
by D. Laudenbach DEPUTY

# DECLARATION OF COVENANTS AND RESTRICTIONS FOR CERTAIN LOTS IN WEST RIVER BUSINESS PARK

**THIS DECLARATION**, is made effective this 11th day of September, 1997, by West River Business Park, L.L.P., a Minnesota limited liability partnership ("Developer").

**WITNESSETH:**

**WHEREAS,** Developer is the Owner of the real property in Stearns County, Minnesota, legally described as follows:

> Lots One (1) through Seven (7), Block One (1); and Lots One (1) through Three (3), Block Two (2), all in West River Business Park, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota,

hereinafter referred to as the "Property" and each platted lot thereof being referred to as "Lot."

**WHEREAS,** it is the general purpose of the Developer to provide for the protection of present and future property values of the Property; and

**WHEREAS,** the Developer plans to develop the Property for commercial and industrial uses, including plans for a gas station/convenience store on Lot One (1), Block One (1), of the Property; and

**WHEREAS,** the Developer desires to assure that the assignees of Lot One (1), Block One (1), of the Property can operate a gas station/convenience store free from competition from other gas station/convenience stores located on any other Lot among the Property.



PRV.
√ Rinke - Noonan

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Page 1 of 4

**NOW, THEREFORE**, the Developer hereby has declared that the real property in said development is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements. charges, and liens set forth in this Declaration as follows:

1. **USE RESTRICTIONS.** Developer agrees that Lot One (1), Block One (1), of the Property shall be the only Lot upon which a gas station/convenience store may be maintained or operated for the duration of this Declaration as set forth in paragraph 2.f. hereof. During the duration of this Declaration, no other lot may be used or occupied by any person or entity for the purpose of the operation of a Competitive Business as defined in paragraph 2.b. hereof.

2. **GENERAL PROVISIONS.**

a. Owner. As used herein, the word "Owner" or "Owners" means the person or persons holding legal or equitable title to one or more Lot.

b. Competitive Business. As used herein, the phrase "Competitive Business" means any of the following activities either in combination with each other as a separate business; (i) any convenience food store, grocery store or food supermarket; (ii) any business that sells and dispenses petroleum products including gasoline; and (iii) any business which sells cigarettes, tobacco or any tobacco related products.

c. Construction. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the herein described properties.

d. Not Deemed a Waiver. The failure of the Developer to insist in any one or more cases upon the strict performance of any of the terms, covenants, provisions, or agreements herein contained shall not be construed as a waiver or a relinquishment in the future of the enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision, or agreement shall not be deemed a waiver of such breach, and no waiver by the Developer of any term, covenant, condition, provision, or agreement shall be deemed to have been made unless expressed in writing and signed by the Developer.

e. Applicable Regulations. Zoning regulations, ordinances, and any other public provisions required or applicable to property subject to this Declaration shall be observed. In the event of any conflict between any provision of such zoning restrictions, ordinances, and any public provisions required on the restrictions of this Declaration, the more restrictive shall apply.



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Page 2 of 4

f. Run With the Land. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded.

g. Amendment. This Declaration may be amended at any time by an instrument signed by the Owner of Lot One (1), Block One (1), of the Property. Any amendment shall take effect only after it is recorded with the Stearns County Recorder.

h. Enforcement. Any Owner or the Developer shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration and/or Supplementary Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

i. Severability. Invalidation of any one of these covenants or restrictions by judgment in court shall in no way affect any other provisions which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Developer has hereunto set its hand as sole owner the day and year first above written.

WEST RIVER BUSINESS PARK
PARTNERSHIP, L.L.P.

By _____
Its General Partner

STATE OF MINNESOTA )
Benton ) SS
COUNTY OF ~~STEARNS~~ )

On this 11th day of September, 1997, before me, a Notary Public within and for said County, personally appeared Ron Moaton, to me personally known who being by me duly sworn they did say that he is the General Partner of West River Business Park Partnership, L.L.P., a Minnesota limited liability partnership, the limited liability partnership named in the foregoing instrument, and that said instrument was signed on behalf of said limited liability partnership by authority of its General Partner and acknowledged said instrument to be the free act and deed of said limited liability partnership.

Rachel L. Knapek
Notary Public

RACHEL L. KNAPEK
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

**THIS INSTRUMENT DRAFTED BY:**
RINKE-NOONAN
700 Norwest Center
P.O. Box 1497
St. Cloud, MN 56302
(320) 251-6700



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Page 4 of 4

WARRANTY DEED — Form No. 9-M — Minnesota Uniform Conveyancing Blanks (6/17/97)

Corporation, Partnership or Limited Liability Company to Corporation, Partnership or Limited Liability Company

No delinquent taxes and transfer entered: Certificate of Real Estate Value ( X ) filed ( ) not required
Certificate of Real Estate Value No. _____

MAY 07 1998 (Date) [signature]

County Auditor

by [signature] Deputy

872602

98 MAY -7 PM 3:31

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Laudenbach DEPUTY

(reserved for recording data)

DEED TAX DUE: $ 468.60

Date: April 16, 1998

FOR VALUABLE CONSIDERATION, **ME International, Inc.**, a **corporation** under the laws of **Michigan**, Grantor, hereby conveys and warrants to **North Tier Landco, LLC**, Grantee, a **limited liability company** under the laws of **Minnesota**, real property in **Stearns County**, Minnesota, described as follows:

Lot 1, Block 1, Foundry Addition

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MN
WELL CERTIFICATE RECEIVED

together with all hereditaments and appurtenances belonging thereto, subject to the ~~following exceptions:~~ permitted exceptions set forth on Exhibit A attached hereto and made a part hereof.

**Check box if applicable:**

- ☐ The Seller certifies that the Seller does not know of any wells on the described real property.
- ☒ A well disclosure certificate accompanies this document.
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

**ME INTERNATIONAL, INC.**

Affix Deed Tax Stamp Here

By [signature]
**Timothy E. Wieland**

27 TRES05 — 980017106 DEED TX % PAID $468.60 — 5/07/1998 14:46:38

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me on March 12th 1998 (Date), by **Timothy E. Wieland**, the President of **ME International, Inc.**, a **corporation** under the laws of **Michigan**, on behalf of the **corporation**.

NOTARY STAMP OR SEAL (OR OTHER TITLE OR RANK)
JEFFREY K. FOSTER
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000

[signature]
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Check here if part or all of the land is Registered (Torrens) ☐

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Gray, Plant, Mooty, Mooty & Bennett, P.A.
3400 City Center, 33 S. 6th Street
Minneapolis, MN 55402
Attn: Jude Hockley

Tax statements for the real property described in this instrument should be sent to (include name and address of grantee):

**North Tier Landco, LLC**
c/o Goodin Company
2700 N. Second St.
Minneapolis, MN 55411

GP:466542.v1

STEARNS COUNTY ABSTRACT CO. 16363

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Page 1 of 2

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# MEMORANDUM LEASE

North Tier Landco, LLC (Lessor) hereby leases to Goodin Company (Tenant), and Tenant hereby accepts the premises (land only) located in Stearns County, Minnesota, legally described as Lot 1, Block 1, Foundry Addition for a term of twenty-five (25) years, commencing on the 4th day of June, 1998, and terminating on the 3rd day of June, 2023, according to the terms of a certain Lease between the parties dated June 1, 1998.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum Lease to be executed in form and manner sufficient in law, this 4TH day of JUNE, 1998.

**LESSOR:**

North Tier Landco, LLC

By _____
Bernard D. Reisberg
Its Chief Manager

**TENANT:**

Goodin Company

By _____
Bernard D. Reisberg
Its President

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before this 4TH day of JUNE, 1998, by Bernard D. Reisberg, the Chief Manager of North Tier Landco, LLC, a Minnesota limited liability company, on behalf of said company.

_____
Notary Public

ERIC J. LINDSTROM
NOTARY PUBLIC
HENNEPIN COUNTY

ATI Title Co
3100 Dain Bosworth Plaza
60 South 6th St
Mpls MN 55402

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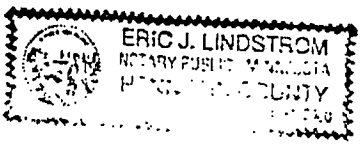
Page 1 of 3

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before this 4TH day of JUNE, 1998, by Bernard D. Reisberg, the President of Goodin Company, a Minnesota corporation, on behalf of said corporation.




Notary Public

THIS INSTRUMENT DRAFTED BY:

Eric J. Lindstrom
Lindstrom Law Offices
7600 Parklawn Avenue, #444
Edina, MN 55435

878750

98 JUL -7 AM 11:55

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY [illegible] DEPUTY

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Page 2 of 3

RETURN DOCUMENTS TO:
TWIN CITIES COMMERCIAL DIVISION
ATI TITLE COMPANY
60 S. SIXTH ST. #2550
MINNEAPOLIS, MN 55402
FILE NO.: 9829133035

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878751

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COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY W. Kindlach DEPUTY

# MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS

BY

GOODIN COMPANY
AND
NORTH TIER LANDCO, LLC

AS MORTGAGORS,

TO

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION

AS MORTGAGEE,

TO SECURE
$921,000.00 REAL ESTATE NOTE

Dated: June 4, 1998

Tax statements for the real property described in this instrument should be sent to:

Goodin Company
2700 North Second Street
Minneapolis, Minnesota 55411

This instrument was drafted by:

WINTHROP & WEINSTINE, P.A.
3200 Minnesota World Trade Center
30 East Seventh Street
Saint Paul, Minnesota 55101

THE MAXIMUM PRINCIPAL AMOUNT OF THE NOTE SECURED BY THIS MORTGAGE IS $921,000.00.

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Page 1 of 20

# MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS

THIS MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS (the "Mortgage"), is made as of the 4th day of June, 1998, by GOODIN COMPANY, a Minnesota corporation (the "Borrower"), and North Tier Landco, LLC, a Minnesota limited liability company ("North Tier") (the Borrower and North Tier are hereinafter at times collectively referred to as the "Mortgagors"), in favor of NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, a national banking association (the "Mortgagee").

## WITNESSETH:

WHEREAS, the Mortgagee has agreed to make a real estate loan to the Borrower in the amount of $921,000 pursuant to the terms and subject to the conditions set forth in that certain construction loan agreement of even date herewith by and between the Mortgagee and the Borrower (the "Loan Agreement"); and

WHEREAS, the Borrower has executed and delivered that certain $921,000 real estate note of even date herewith and payable to the order of the Mortgagee (the "Note") which Note is due and payable in full on June 1, 2019, or such earlier date as is set forth in the Note; and

WHEREAS, North Tier is the fee owner of the tract of land legally described on Exhibit A attached hereto and hereby made a part hereof (the "Land"), and

WHEREAS, the Land has been leased by North Tier to the Borrower as evidenced by that certain Memorandum of Lease dated June 4, 1998, and filed of record on July 7, 1998, as Document No. 878750 (the "Lease");

WHEREAS, the Mortgagee has required as an express condition precedent to making a loan to the Mortgagors pursuant to the Note that the Mortgagors secure the Note by this Mortgage.

NOW THEREFORE, THIS MORTGAGE FURTHER WITNESSETH, that in consideration of the Mortgagee making a loan to the Borrower pursuant to the Note in the principal amount of Nine Hundred Twenty-One Thousand and 00/100 Dollars ($921,000.00) (the "Mortgage Amount") and other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure, and as security for, the payment of principal and interest and other premiums, penalties and charges on the Note and the performance and observance by the Mortgagors of all of the covenants, agreements, representations, warranties and conditions contained herein, the Mortgagors do hereby grant, bargain, sell, convey, assign, transfer, pledge, set over and confirm unto the Mortgagee, its successors and assigns, forever, and do hereby grant a mortgage lien and security interest to the Mortgagee, its successors and assigns, forever, in and to the Land;

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Together with (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing (all of the foregoing is hereinafter collectively referred to as the "Mortgaged Property").

The filing of this Mortgage shall constitute a fixture filing in the office where it is filed and a carbon, photographic or other reproduction of this document may also be filed as a financing statement:

| | |
|---|---|
| Name and Address of Debtor and Record Owner of Real Estate: | Goodin Company<br>(Federal Tax Identification Number: 41-0281472)<br>North Tier Landco, LLC<br>(Federal Tax Identification Number: 41-1893961)<br>2700 North Second Street<br>Minneapolis, Minnesota 55411 |
| Name and Address of Secured Party: | Norwest Bank Minnesota, National Association<br>Minneapolis Office<br>Norwest Center<br>Sixth and Marquette<br>Minneapolis, Minnesota 55479 |
| Description of the Types (or items) of property covered by this financing statement: | See above |



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| | |
|---|---|
| Description of real estate to which all or a part of the collateral is attached or upon which it is located: | See Exhibit A attached hereto. |

Some of the above described collateral is or is to become fixtures upon or minerals and mineral rights located upon the real estate described on Exhibit A, and this financing statement is to be filed for record in the public real estate records.

AND THE MORTGAGORS, for themselves, their successors and assigns, do covenant with the Mortgagee, its successors and assigns, that they are lawfully seized of the Mortgaged Property and have good right to sell and convey the same; that the Mortgaged Property is free from all encumbrances except as may be further stated in this Mortgage; that the Mortgagee, its successors and assigns, shall quietly enjoy and possess the Mortgaged Property; and that the Mortgagors will WARRANT AND DEFEND the title to the same against all lawful claims not specifically excepted in this Mortgage.

PROVIDED, NEVERTHELESS, that if the Borrower shall pay the principal balance of the Note in full, plus interest at the rate set forth in the Note, as the same changes from time to time and is adjusted in the manner set forth in the Note, on the unpaid principal balance, as computed in accordance with the terms and conditions of the Note, and any other sums due and owing under the Note and the Loan Agreement and shall also pay or cause to be paid all other sums, with interest thereon, as may be advanced by the Mortgagee in accordance with this Mortgage either to protect the lien of this Mortgage, or by way of additional loan or for any other purpose, and shall also keep and perform all and singular the covenants herein, required on the part of the Mortgagors to be kept and performed (the Note, including any and all renewals, amendments, extensions and modifications thereof, and all such sums, together with interest thereon, and such covenants herein collectively referred to as the "Indebtedness Secured Hereby"), then this Mortgage shall be null and void, in which event the Mortgagee will execute and deliver to the Mortgagors in form suitable for recording a full satisfaction of this Mortgage; otherwise this Mortgage shall remain in full force and effect.

## ARTICLE I.

## GENERAL COVENANTS, AGREEMENTS, WARRANTIES

SECTION 1.

SECTION 1.1. PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS. The Borrower shall duly and punctually pay each and every payment of principal, interest and all prepayment premiums and late charges, if any, required by the Note or the Loan Agreement and all other Indebtedness Secured Hereby, as and when the same shall become due, and the Mortgagors shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein.



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Page 4 of 20

SECTION 1.2. MAINTENANCE; REPAIRS. Subject to the provisions of Section 2.3 hereof, the Mortgagors shall keep and maintain the Mortgaged Property in good condition, repair and operating condition free from any waste or misuse, and will comply with all requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the Mortgaged Property and its use, and will promptly repair or restore any building, improvements or structures now or hereafter located on the Land which may become damaged or destroyed to their condition prior to any such damage or destruction. The Mortgagors shall not acquiesce in any rezoning classification, modification or restriction affecting the Land, without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld nor delayed. The Mortgagors shall not vacate or abandon the Mortgaged Property.

SECTION 1.3. PAYMENT OF UTILITY CHARGES, TAXES AND ASSESSMENTS. The Mortgagors shall, before any penalty attaches thereto, pay or cause to be paid all charges made for electricity, gas, heat, water, sewer and other utilities furnished or used in connection with the Mortgaged property, and all taxes, assessments and levies of every nature heretofore or hereafter assessed against the Mortgaged Property and, upon demand, will furnish the Mortgagee receipted bills evidencing such payment.

Nothing in this Section 1.3 shall require the payment or discharge of any obligations imposed upon the Mortgagors by this Section so long as the Mortgagors shall diligently and in good faith and at their own expense contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Mortgaged Property or any part thereof to satisfy the same; provided, however, that during such contest the Mortgagors shall, at the reasonable request of the Mortgagee, provide security satisfactory to the Mortgagee, assuring the discharge of the Mortgagors' obligation under this Section and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided further, however, that if at any time payment of any obligation imposed upon the Mortgagors by this Section shall become necessary to prevent the delivery of a tax deed conveying the Land or any portion thereof because of nonpayment, then the Mortgagors shall pay the same in sufficient time to prevent the delivery of such tax deed.

SECTION 1.4. LIENS. Except for liens and encumbrances, if any, listed on Exhibit B attached hereto or consented to in writing by or granted to the Mortgagee ("Permitted Encumbrances"), the Mortgagors will keep the Mortgaged Property free from all liens (other than liens for taxes, assessments and mechanics' liens not yet due and payable) and encumbrances of every nature whatsoever heretofore or hereafter arising and, upon written demand of the Mortgagee, the Mortgagors will pay and procure the release of any such lien or encumbrance.

SECTION 1.5. COMPLIANCE WITH LAW. The Mortgagors will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property unless the same is being diligently contested by the Mortgagors in good faith and by proper proceedings.

SECTION 1.6. RIGHT OF THE MORTGAGEE TO ENTER. The Mortgagors will permit the Mortgagee and its agents to enter, and to authorize others to enter, upon any or all of the



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Page 5 of 20

Land, at any time and from time to time, during normal business hours, to inspect the Mortgaged Property to perform or observe any covenants, conditions or terms hereunder which the Mortgagors shall fail to perform, meet or comply with, or for any other purpose in connection with the protection or preservation of the Mortgagee's security, without thereby becoming liable to the Mortgagors or any person in possession under the Mortgage.

SECTION 1.7. RIGHT OF THE MORTGAGEE TO PERFORM. If the Mortgagors fail to pay all and singular any taxes, assessments, levies or other similar charges or encumbrances heretofore or hereafter assessed against the Mortgaged Property or fail to obtain the release of any lien or encumbrance (other than a Permitted Encumbrance) of any nature heretofore or hereafter arising upon the Mortgaged Property or fail to perform any other covenants and agreements contained in this Mortgage or if any action or proceeding is commenced which adversely affects or questions the title to or possession of the Mortgaged Property or the interest of the Mortgagors or the Mortgagee therein, then the Mortgagee, at the Mortgagee's option, without notice to the Mortgagors, may perform such covenants and agreements, investigate and defend against such action or proceeding, and take such other action as the Mortgagee deems necessary to protect the Mortgagee's interest. Any amounts disbursed by the Mortgagee pursuant to this Section 1.7, including without limitation court costs and expenses and attorneys' fees, with interest thereon, shall become additional indebtedness of the Mortgagors and shall be secured by this Mortgage. Such amount shall be payable upon written notice from the Mortgagee to the Mortgagors requesting payment thereof, and shall bear interest from the date of disbursement at a rate equal to the greater of (i) the rate of interest then in effect under the Note or, (ii) eighteen percent (18%) per annum or, if such rate is illegal or usurious, at the maximum rate then permitted by law. Nothing contained in this Section 1.7 shall require the Mortgagee to incur any expense or to do any act or thing hereunder.

SECTION 1.8. ASSUMPTION. The Mortgagors shall not sell, assign, lease, convey, mortgage or otherwise encumber or dispose of either the legal or equitable title or both to all or any portion of the Mortgaged Property or any other interest therein without the prior written consent of the Mortgagee; provided that North Tier shall be entitled to transfer its interest in the Mortgaged Property to the Borrower without the consent of the Mortgagee. A sale, transfer or assignment of any ownership interest in either of the Mortgagors shall constitute a sale for the purposes of this Section 1.8.

SECTION 1.9. ASSIGNMENT OF RENTS. The Mortgagors do hereby sell, assign and transfer unto the Mortgagee (i) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or any part of the Mortgaged Property now, heretofore or hereafter made or agreed to by the Mortgagors, and (ii) all of such leases and agreements, together with all guarantees therefor and any renewals or extensions thereof, for the purpose of securing payment of the indebtedness of the Mortgagors under the Note and the documents related thereto.

The Mortgagors do hereby irrevocably appoint the Mortgagee their true and lawful attorney in their name, place and stead, with or without taking possession of the Mortgaged Property, to



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Page 6 of 20

rent, lease, sublease, let or sublet all or any portion of the Mortgaged Property to any party or parties at such rental and upon such terms, as it in its discretion may determine, and to collect all of said avails, rents, income, issues and profits arising from or accruing at any time hereafter under each and all of such leases and agreements, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as the Mortgagee would have upon taking possession of the Mortgaged Property.

The Mortgagors represent and agree that no rent has been or will be paid in advance by any persons in possession of all or any portion of the Mortgaged Property for a period of more than one month and that the payment of none of the rents to accrue for all or any portion of the Mortgaged Property has or will be waived, released, reduced or discounted, or otherwise discharged or compromised, by the Mortgagors. The Mortgagors waive any right of setoff against any person in possession of all or any portion of the Mortgaged Property. The Mortgagors represent that they have not assigned any of said rents or profits to any third party and agrees that they will not so assign any of said rents or profits without the prior written consent of the Mortgagee.

Nothing contained herein shall be construed as constituting the Mortgagee "a mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. In the exercise of the powers herein granted to the Mortgagee, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by the Mortgagors.

The Mortgagors further agree to assign and transfer to the Mortgagee all rents from future leases or subleases upon all or any part of the Mortgaged Property and to execute and deliver, immediately upon request of the Mortgagee, as such further assurances and assignments in the Mortgaged Property as the Mortgagee from time to time shall require.

Although it is the intention of the parties that this assignment of leases and rents shall be a present assignment, it is expressly understood and agreed that, anything herein contained to the contrary notwithstanding, the Mortgagee shall not exercise any of the rights and powers conferred upon it herein unless and until an Event of Default shall occur and nothing herein contained shall be deemed to affect or impair any rights which the Mortgagee may have under the Note, the Loan Agreement, this Mortgage, the Security Agreement or any other document or agreement related hereto or thereto.

The Mortgagors acknowledge and agree that this assignment of leases and rents, and the Mortgagee's rights and remedies hereunder, may be enforced by the Mortgagee throughout the entire redemption period provided by applicable law following any foreclosure sale of all or any portion of the Mortgaged Property.

At any time after the occurrence of an Event of Default under the Loan Agreement, the Mortgagee, without in any way waiving such default, may:



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I. at the Mortgagee's option without notice to the Mortgagors and without regard to the adequacy of the security for the Note, either in person or by agent, with or without any action or proceeding, or by a receiver appointed by a court of competent jurisdiction pursuant to Minnesota Statutes, Section 559.17, Subd. 2, peaceably take possession of the Mortgaged Property and have, hold, manage, lease, sublease and operate the same as a mortgagee in possession; or

II. the Mortgagee, without taking possession of the Mortgaged Property, may sue for or otherwise collect and receive all rents, income and profits from the Mortgaged Property to which the Mortgagors would otherwise be entitled, including those past due and unpaid with full power to make from time to time all adjustments thereto, as may seem proper to the Mortgagee.

The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases, sublease or rental agreements relating to the Mortgaged Property, and the Mortgagors shall and do hereby agree to indemnify and hold the Mortgagee harmless from and against any and all liability, loss or damage which it may or might incur under any such lease, sublease or agreement or under or by reason of the assignment of the rents thereof and from and against any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of such leases, provided that the Mortgagors shall not indemnify and hold harmless the Mortgagee from any liability loss or damage resulting from acts or omissions of the Mortgagee which occur on or after the date the Mortgagee takes possession of the Mortgaged Property. Should the Mortgagee incur any liability, loss or damage by reason of this assignment of leases and rents, or in the defense of any claim or demand, the Mortgagors agree to reimburse the Mortgagee for the amount thereof, including costs, expenses and attorneys' fees, immediately upon demand.

The Mortgagee, or such agent or receiver, in the exercise of the rights and powers conferred upon it by this assignment of leases and rents shall have the full power to use and apply the avails, rents, issues, income and profits of the Mortgaged Property to which the Mortgagors would otherwise be entitled to the payment of or on account of the following in the order listed below:

I. Reasonable receiver's fees;

II. Application of tenant security deposits as required by Minnesota Statutes, Section 504.20;

III. Payment, when due, of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for the payment of the taxes or special assessments;

IV. Payment, when due, of premiums for insurance of the type required by this Mortgage, or the periodic escrow for the payment of the premiums; and



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V. All expenses for normal maintenance of the Mortgaged Property;

provided, however, that nothing herein shall prohibit the right to reinstate pursuant to Minnesota Statutes, Section 580.30, or the right to redeem granted pursuant to Minnesota Statutes, Sections 580.23 and 581.10.

Any excess cash remaining after paying the expenses listed in clauses (I) through (V) above shall be applied to the payment of the Note and shall be deemed to be credited to the amount required to be paid to effect a reinstatement or redemption or, if the period of redemption ends without redemption, such remaining amounts shall be paid to the purchaser at the foreclosure sale, its successors or assigns.

The Mortgagors do further specifically authorize and instruct each and every present and future lessee, sublessee, tenant or subtenant of the whole or any part of the Mortgaged Property to pay all unpaid rental agreed upon in any lease or sublease to the Mortgagee upon receipt of demand from the Mortgagee so to pay the same.

Any tenants, subtenants or other occupants of all or any part of the Mortgaged Property are hereby authorized to recognize the claims of the Mortgagee hereunder without investigating the reason for any action taken by the Mortgagee, or the validity or the amount of indebtedness owing to the Mortgagee, or the occurrence or existence of any Event of Default, or the application to be made by the Mortgagee of any amounts to be paid to the Mortgagee. The sole signature of any officer or attorney of the Mortgagee shall be sufficient for the exercise of any rights under this assignment of leases and rents and the sole receipt of the Mortgagee for any sums received by such tenants, subtenants or other occupants shall be a full discharge and release therefor. Checks for all or any part of the rentals collected under this Assignment of Leases and Rents shall be drawn to the exclusive order of the Mortgagee.

SECTION 1.10. FURTHER ASSURANCES. At any time and from time to time, upon request by the Mortgagee, the Mortgagors will make, execute and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, the obligations of the Mortgagors hereunder and under the Note, the Loan Agreement and the mortgage and security interest granted by this Mortgage. Upon any failure by the Mortgagors so to do, the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagors and the Mortgagors hereby irrevocably appoint the Mortgagee their agent and attorney in fact of the Mortgagors so to do.

SECTION 1.11. EXPENSES. The Mortgagors will pay or reimburse the Mortgagee for all attorneys' fees, costs and expenses incurred by the Mortgagee in any legal proceeding or dispute of any kind in which the Mortgagee is made a party, or appears as party plaintiff or defendant, affecting the Indebtedness Secured Hereby, this Mortgage, the interest created herein or the Mortgaged Property, including but not limited to the exercise of the power of sale set forth in this Mortgage, any condemnation action involving the Mortgaged Property or any action to protect



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the security hereof and any such amounts paid by the Mortgagee shall be added to the indebtedness secured by this Mortgage.

SECTION 1.12. BOOKS AND RECORDS; FINANCIAL STATEMENTS. The Mortgagors will keep and maintain full, true and accurate books of account adequate to reflect correctly the results of the operation of the Mortgaged Property, all of which books and records relating thereto shall be open to inspection by the Mortgagee or its representative during normal business hours.

SECTION 1.13. HAZARDOUS SUBSTANCES. The Mortgagors warrant, covenant and represent that, except as set forth in the Reports (as that term is defined in the Loan Agreement), there does not exist in or under the Mortgaged Property any pollutant, toxic or hazardous waste or substance, or any other material the release or disposal of which is regulated by any law, regulation, ordinance or code related to pollution or environmental contamination, and, that no part of the Mortgaged Property was ever used for any industrial or manufacturing purpose or as a dump, sanitary landfill, or gasoline service station, and that there exists on the Mortgaged Property no storage tanks, electrical transformers or other equipment containing PCBs or material amounts of asbestos. Except as set forth in the Reports, the Mortgagors represent that they have received no summons, citations, directives, letters or other communications, written or oral, from any federal, state or local agency or department concerning the storing, releasing, pumping, pouring, emitting, emptying or dumping of any pollutant, toxic or hazardous waste or substance on the Mortgaged Property.

The Mortgagors covenant and agree that they shall not, nor shall they permit others to, use the Mortgaged Property for the business of generating, transporting, storing, treating or disposing of any pollutant, toxic or hazardous waste or substance, nor shall they either take or fail to take any action which may result in a release of any hazardous substance from or onto the Mortgaged Property. In addition to all rights of access granted the Mortgagee pursuant to Section 1.6 hereof, during the term of the loan contemplated hereby, the Mortgagee, or any authorized agent, contractor or representative of the Mortgagee, is hereby irrevocably authorized to enter upon the Mortgaged Property at any time and from time to time for reasonable cause or upon the occurrence of an Event of Default for the purpose of performing inspections, taking soil borings or other borings, or conducting any other tests or procedures on, in or about the Mortgaged Property as the Mortgagee deems necessary or appropriate to determine whether any hazardous or toxic substances, including without limitation asbestos or PCBs, are present on, under or about the Mortgaged Property.

The Mortgagors agree to jointly and severally indemnify and to hold the Mortgagee harmless from any and all claims, causes of action, damages, penalties, and costs (including, but not limited to, attorneys' fees, consultants' fees and related expenses) which may be asserted against, or incurred by, the Mortgagee resulting from or due to release of any hazardous substance or waste on the Mortgaged Property or arising out of any injury to human health or the environment by reason of the condition of or past activity upon the Mortgaged Property. The Mortgagors' duty to indemnify and hold harmless includes, but is not limited to, proceedings or actions commenced by any person (including, but not limited to, any federal, state, or local governmental agency or



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entity) before any court or administrative agency. The Mortgagors further agree that pursuant to their duty to indemnify under this section, the Mortgagors shall indemnify the Mortgagee against all expenses incurred by the Mortgagee as they become due and not waiting for the ultimate outcome of the litigation or administrative proceeding. The Mortgagors' obligations to indemnify and hold the Mortgagee harmless hereunder shall survive repayment of the Mortgage Amount and satisfaction or foreclosure of this Mortgage.

SECTION 1.14. TAX ESCROW. Upon request by the Mortgagee, the Mortgagors shall pay to the Mortgagee, on each day monthly installments of principal and/or interest are payable under the Note, until the Note is paid in full, a sum equal to one-twelfth (1/12th) of the annual taxes and assessments payable with respect to the Mortgaged Property, all as estimated initially and from time to time determined by the Mortgagee, to be applied by the Mortgagee to pay said taxes and assessments (such amounts being hereinafter referred to as the "Funds"). The Mortgagee shall apply the funds to pay said taxes and assessments prior to the date that penalty attaches for non-payment. The Funds are hereby pledged as additional security for the Indebtedness Secured Hereby. No interest shall accrue on the Funds.

If the amount of the Funds held by the Mortgagee shall exceed at any time the amount deemed necessary by the Mortgagee to provide for the payment of taxes and assessments, such excess shall, at the option of the Mortgagee, either be promptly repaid to the Mortgagors or be credited to the Mortgagors on the next monthly installment of Funds due. If at any time the Funds are less than the amount deemed necessary by the Mortgagee to pay taxes and assessments as they fall due, the Mortgagors shall promptly pay to the Mortgagee any amount necessary to make up the deficiency upon written notice from the Mortgagee to the Mortgagors requesting payment thereof.

Upon the occurrence of an Event of Default under the Loan Agreement, the Mortgagee may apply in any order as the Mortgagee shall determine in its sole discretion, any Funds held by the Mortgagee at the time of application to pay taxes and assessments which are then or will thereafter become due or as a credit against the Indebtedness Secured Hereby. Upon payment in full of all Indebtedness Secured Hereby, the Mortgagee shall promptly refund to the Mortgagors any Funds held by the Mortgagee.

## ARTICLE II.

## INSURANCE, CONDEMNATION AND USE OF PROCEEDS

SECTION 2.

SECTION 2.1. INSURANCE. Until the Indebtedness Secured Hereby has been paid in full, the Mortgagors shall obtain and maintain the following:

(1) The Mortgagors shall keep the buildings, structures, fixtures and other improvements now existing or hereafter erected on the Land insured against loss by fire, vandalism, and malicious mischief, perils of extended coverage, and such



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other hazards, casualties and contingencies as may be specified by the Mortgagee, in an amount not less than the greater of (a) the full replacement cost thereof and (b) the full insurable value thereof, which in no event shall be less than the amount of Indebtedness Secured Hereby, and naming the Mortgagee as mortgagee and loss payee. The Mortgagors shall also maintain rent loss or business interruption insurance with respect to such exposures and perils in an amount sufficient to enable the Mortgagors to make the required monthly payments under the Note, to pay taxes and insurance and to continue operations during an assumed reconstruction period of one (1) year, naming the Mortgagee as mortgagee and loss payee. The Mortgagors shall also maintain comprehensive general public liability insurance providing for limits of coverage of not less than $1,000,000 combined single limit coverage, and naming the Mortgagee as an additional insured. The Mortgagors shall also maintain such insurance as is required by the Loan Agreement.

(2) The Mortgagors shall also maintain flood insurance in the event the Mortgagee notifies the Mortgagors that the Federal Emergency Management Agency ("FEMA") has determined that the Mortgaged Property is located in a flood hazard area. Such insurance must meet FEMA coverage requirements, must name the Mortgagee as loss payee, and must be in an amount equal to the lesser of the Mortgage Amount or the maximum insurance available under the National Flood Insurance Program. The Mortgagors understand and agree that even though the Mortgaged Property may not be currently located within a FEMA designated flood hazard area or that the community in which the Mortgaged Property is located does not currently participate in the federal flood insurance program, this may change in the future. In the event of the change of such designation, the Mortgagors agree to obtain the flood insurance required above within forty-five (45) days after receipt of notice thereof from the Mortgagee. The Mortgagors shall reimburse the Mortgagee for all costs and expenses incurred by the Mortgagee in ascertaining from time to time whether the Mortgaged Property is located in a flood hazard area.

(3) All insurance shall be carried in companies licensed to do business in the State of Minnesota and approved by the Mortgagee and the policies and renewals thereof shall (i) contain a waiver of defense based on coinsurance, (ii) be constantly assigned and pledged to and held by the Mortgagee as additional security for the Indebtedness Secured Hereby, (iii) have attached thereto loss-payable clauses in favor of and in form acceptable to the Mortgagee, and (iv) provide that the Mortgagee shall receive at least thirty (30) days' prior written notice of cancellation or any substantial modification of the policy. The Mortgagors shall provide the Mortgagee with written evidence acceptable to the Mortgagee of all such insurance on the date hereof and prior to each renewal date of such policies of insurance. In default thereof, the Mortgagee may effect any insurance required to be maintained by the Mortgagors pursuant to this Section 2.1 and the amount paid therefor shall become immediately due and payable with



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interest at a rate equal to the greater of (i) eighteen percent (18%) per annum, or (ii) the rate of interest then in effect under the Note or, if such rate is illegal or usurious, at the maximum rate permitted by law, and shall be secured by this Mortgage. The Mortgagors acknowledge that any insurance obtained by the Mortgagee hereunder may be more expensive than the insurance which could be obtained by the Mortgagors and that such coverage may not be as inclusive as the coverage obtained by the Mortgagors due to the fact that it may not include contents coverage or liability coverage. In the event of loss or damage to the Mortgaged Property, the Mortgagors will give immediate written notice thereof to the Mortgagee, who may make proof of loss or damage if not made promptly by the Mortgagors. In the event the Mortgagors fail to settle and compromise such claim within four (4) months after the date of loss or damage, or in the event an Event of Default has occurred and is then continuing, the Mortgagors hereby authorize the Mortgagee to settle and compromise all claims on such policies and hereby authorize and direct each insurance company concerned to make payment for any such loss to the Mortgagors and the Mortgagee jointly. In the event of foreclosure of this Mortgage, all right, title and interest of the Mortgagors in and to any property insurance policies then in force shall pass to the purchaser at the foreclosure sale.

SECTION 2.2. CONDEMNATION. The Mortgagors shall give the Mortgagee immediate written notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Property or any easement therein or appurtenance thereof. If all or any part of the Mortgaged Property is damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking, acquisition or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid indebtedness secured by this instrument, is hereby assigned to the Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of the Mortgagors and the same shall be paid forthwith to the Mortgagee, to be applied to the Indebtedness Secured Hereby, and any excess shall be paid to the Mortgagors.

SECTION 2.3. THE MORTGAGORS TO REPAIR, REPLACE, REBUILD OR RESTORE. If any Indebtedness Secured Hereby is outstanding when all or any part of the Mortgaged Property is destroyed or damaged, unless the Mortgagee elects, at its option, which option is hereby irrevocably granted by the Mortgagors to the Mortgagee, to apply such proceeds as a prepayment of the Note:

(1) the Mortgagors shall either prepay the Note in full or proceed promptly, subject to the provisions of subsection (2) of this Section 2.3, to replace, repair, rebuild and restore the Mortgaged Property to substantially the same condition as existed before the taking or event causing the damage or destruction;

(2) all proceeds of any insurance claim shall be paid directly to the Mortgagee. The Mortgagee shall apply the proceeds, less such sum, if any, required for



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payment of all expenses incurred in collecting the same ("Net Proceeds"), to payment of the costs of repair, replacement, rebuilding or restoration of the Mortgaged Property upon compliance with such construction and disbursement terms as the Mortgagee may deem reasonably necessary, including deposit by the Mortgagors with the Mortgagee of such funds of the Mortgagors as may be required to insure payment of all costs of rebuilding, restoration, repair or replacement. If such deposit is not made when requested by the Mortgagee, or if an Event of Default occurs while the Mortgagee is retaining the Net Proceeds, the Mortgagee may apply the Net Proceeds to the Indebtedness Secured Hereby. The balance of the Net Proceeds remaining after payment of all costs of any repair, rebuilding, replacement or restoration of the Mortgaged Property shall be applied as a prepayment of the Indebtedness Secured Hereby, and any excess shall be paid to the Mortgagors; and

(3) the Mortgagors shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the Mortgagee or any abatement or diminution of the amounts payable under the Note, the Loan Agreement or on any other Indebtedness Secured Hereby.

## ARTICLE III.

## REMEDIES

SECTION 3.

SECTION 3.1. REMEDIES. Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee may, at its option, exercise any and all of the following rights and remedies (and any other rights and remedies available to it under applicable law or any document related hereto):

(1) the Mortgagee shall be entitled to seek immediate appointment of a receiver for the Mortgaged Property; and

(2) the Mortgagee may foreclose this Mortgage by action or advertisement upon written notice thereof to the Mortgagors, and the Mortgagors hereby authorize the Mortgagee to do so, power being herein expressly granted to sell the Mortgaged Property at public auction without any prior hearing thereof and to convey the same to the purchaser, in fee simple, pursuant to the statutes of Minnesota in such case made and provided and, out of the proceeds arising from such sale, to pay all Indebtedness Secured Hereby with interest, and all legal costs and charges of such foreclosure and the maximum attorney's fees permitted by law, which costs, charges and fees the Mortgagors herein agree to pay, and to pay the surplus, if any, to the Mortgagors, their successors or assigns; and



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(3) the Mortgagee may exercise any of the remedies made available to a secured party under the Uniform Commercial Code in effect in the State of Minnesota, or other applicable law, with respect to any of the Mortgaged Property which constitutes personal property, including without limitation the right to take possession thereof, proceeding without judicial process or by judicial process (without a prior hearing or notice thereof, which the Mortgagors hereby waive), and the right to sell, lease or otherwise dispose of or use any or all of such personal property. The Mortgagee may require the Mortgagors to assemble such personal property and make it available to the Mortgagee at a place designated by the Mortgagee which is reasonably convenient to both the Mortgagors and the Mortgagee. If notice to the Mortgagors of any intended disposition of any of the Mortgaged Property constituting personal property or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in Section 4.2 hereof) at least ten (10) calendar days prior to the date of intended disposition or other action.

In the event of a sale under this Mortgage, whether by virtue of judicial proceedings or otherwise, the Mortgaged Property may, at the option of the Mortgagee, be sold as one parcel and as an entirety or in such parcels, manner and order as the Mortgagee in its sole discretion may elect.

SECTION 3.2. PURCHASE OF MORTGAGED PROPERTY. In case of any sale of the Mortgaged Property pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Mortgage, the Mortgagee, its successors and assigns, may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Note and any claims for interest, late charges and prepayment premiums matured and unpaid thereon, together with any other Indebtedness Secured Hereby, if any, in order that there may be credited as paid on the purchase price the sum, or any part thereof, then due under the Note, including principal thereof and interest, late charges and prepayment premiums, if any, thereon, and any other Indebtedness Secured Hereby.

## ARTICLE IV.

## MISCELLANEOUS

SECTION 4.

SECTION 4.1. SUCCESSORS AND ASSIGNS. The covenants and agreements contained herein, including, without limitation, the provision of Section 1.8 hereof, shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the Mortgagors and the Mortgagee, including among the Mortgagors' assigns any purchasers or transferees of the Mortgaged Property.



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SECTION 4.2. NOTICES. Any notice, request, demand or other communication permitted or required hereunder shall be deemed duly given if delivered or mailed postage prepaid, certified or registered, addressed to the address of such party on page 2 of this Mortgage.

SECTION 4.3. HEADINGS. The headings of the sections contained herein are for convenience only and are not to be construed to be a part of or limit or affect the terms hereof.

SECTION 4.4. EXPENSES. The Mortgagors shall reimburse the Mortgagee and any participant, upon demand, for all costs and expenses, including without limitation attorneys' fees, appraisal fees, survey fees, closing charges, documentary or tax stamps, recording and filing fees, insurance premiums and service charges, paid or incurred by the Mortgagee in connection with (i) the preparation, negotiation, approval, execution and delivery of the Note, the Loan Agreement, the Mortgage and any other documents and instruments related hereto or thereto; (ii) the negotiation of any amendments or modifications to any of the foregoing documents, instruments or agreements and the preparation of any and all documents necessary or desirable to effect such amendments or modifications; and (iii) the enforcement by the Mortgagee during the term hereof or thereafter of any of the rights or remedies of the Mortgagee or any participant hereunder or under any of the foregoing documents, instruments or agreements, including without limitation costs and expenses of collection, whether or not suit is filed with respect thereto and whether such costs are paid or incurred, or to be paid or incurred, prior to or after entry of judgment.

SECTION 4.5. CONSTRUCTION MORTGAGE. This Mortgage shall constitute a construction mortgage and shall be entitled to all of the rights and benefits provided to such mortgages under applicable Minnesota law.

SECTION 4.6. DEFINITIONS. As used herein, the terms "Event of Default" and "Security Agreement" shall have the meanings assigned to such terms in the Loan Agreement.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be duly executed and delivered to the Mortgagee as of the day and year first above written.

GOODIN COMPANY

By: _____
Its: Pres.

By: _____
Its: Sec



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STATE OF MINNESOTA )
) ss
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me this 4 day of June, 1998, by Bernard D. Reinberg, the Pres., and Gregory D. Shagesberg, the Sec., of Goodin Company, a Minnesota corporation, for and on behalf of said corporation.

JOHN R. HALEY
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000

Notary Public

NORTH TIER LANDCO, LLC

By: Bernard D. Reinberg
Its: Chief Mgr

STATE OF MINNESOTA )
) ss
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me this 4 day of June, 1998, by Bernard D Reinberg, the Chief Manager of North Tier Landco, LLC, a Minnesota limited liability company, for and on behalf of said company.

Notary Public

JOHN R. HALEY
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000

STP1: 453695-2

MORTGAGE REGISTRATION TAX 2118.30

STEARNS COUNTY AUDITOR

Virgil Urbanski
DEPUTY AUDITOR

28 980024553 7/07/1998
TRES10 MR STATE % 10:41:28
PAID
$2,118.30



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**EXHIBIT A**

(Legal Description)

Lot One (1), Block One (1), Foundry Addition, Stearns County, Minnesota.

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## EXHIBIT B

(Permitted Encumbrances)

1. Utility and drainage easements over 10 feet adjoining all Lot lines as shown on the recorded plat of Foundry Addition.

2. Terms and conditions of Agreement dated July 23, 1970, recorded November 10, 1970, in Book 52 of A & A page 245.

3. Utility Easement dated November 7, 1974, recorded November 27, 1974, as Document No. 450372. 61 A+A 491

4. Terms and conditions of Access Agreement between ABB Power Distribution Inc., and ME International dated December 28, 1989, recorded January 3, 1990, as Document No. 669548.

5. Affidavit by Johann Wagner, employee of ABB Power Distribution Inc., dated December 14, 1989, recorded January 3, 1990, as Document No. 669550.

6. Subdivision Agreement dated July 31, 1995, between the City of St. Cloud and ME International, Inc., a Michigan corporation, recorded as Document No. 802960.

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RETURN DOCUMENTS TO:
TWIN CITIES COMMERCIAL DIVISION
ATT TITLE COMPANY
60 S. SIXTH ST. #2550
MINNEAPOLIS, MN 55402
FILE NO.: 98G15035

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COUNTY RECORDER
STEARNS CO. MN
PATRICIA H. OVERMAN
BY D. Knoblach DEPUTY

# PROPERTY INSPECTION EASEMENT

This Property Inspection Easement is made and entered into as of this 4th day of June, 1998, by and between NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, a national banking association (the "Lender"), and GOODIN COMPANY, a Minnesota corporation (the "Borrower"), and North Tier Landco, LLC, a Minnesota limited liability company ("North Tier") (the Borrower and North Tier are hereinafter at times collectively referred to as the "Mortgagors").

## RECITALS:

WHEREAS, North Tier is the owner of fee simple title to a parcel of real property, more particularly described on Exhibit A attached hereto and incorporated herein (the "Real Property"); and

WHEREAS, the Real Property has been leased by North Tier to the Borrower as evidenced by that certain Memorandum of Lease dated June 4, 1998, and filed of record in the office of the Stearns County Recorder on July 7, 1998, as Document No. 878750; and

WHEREAS, the Lender is the mortgagee under a certain Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents of even date herewith in the original principal amount of $921,000, executed by the Mortgagors and filed of record in the office of the Stearns County Recorder on July 7, 1998, 1998, as Document No. 878751 (the "Mortgage"), which Mortgage encumbers the Real Property; and

WHEREAS, the Mortgage secures, among other things, the indebtedness of the Borrower to the Lender under and pursuant to a certain Real Estate Note of even date herewith in the original principal amount of $921,000 executed by the Borrower and made payable to the order of the Lender (the "Note"); and

WHEREAS, the Note and the Mortgage were executed pursuant to a certain Construction Loan Agreement of even date herewith by and between the Lender and the Borrower (the "Loan Agreement"); and

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WHEREAS, the Lender agreed to make the loan evidenced by the Note only upon receipt of this Property Inspection Easement from the Mortgagors granting to the Lender an absolute right, at any time and from time to time, to enter upon the Real Property for the purposes of conducting inspections and tests to determine if the ownership, use and operation of the Real Property are in compliance with all applicable environmental laws; and

WHEREAS, the Mortgagors are willing to grant to the Lender an irrevocable easement to permit the Lender to enter upon the Real Property for such inspection and testing so as to obtain the loan evidenced by the Note.

NOW, THEREFORE, in consideration of the Recitals, which are hereby made a part hereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Grant of Easement. The Mortgagors hereby grant and convey to the Lender an easement to enter on and upon the Real Property at any reasonable time and from time to time during the term of the Note for the purpose of making structural and environmental audits, tests, inspections and examinations, including without limitation, subsurface exploration and testing, and core samples of any building materials contained in the improvements on the Real Property as the Lender, in its discretion, deems necessary, convenient or proper to determine the structural condition of the Real Property and whether the ownership, use and operation of the Real Property and the conduct of the activities engaged in thereon are in compliance with all federal, state, and local environmental laws, rules and regulations (collectively, "Environmental Laws") and other applicable laws, including without limitation, the Americans with Disabilities Act of 1990 ("ADA"). The Lender, or its designated agents, shall have the right to inspect and copy any or all of the Mortgagor's records relating to environmental matters or the structural condition of the Real Property or compliance of the Real Property with other applicable laws or to enter all buildings or facilities of the Mortgagors for such purposes. In confirmation of the Lender's right to inspect and copy all of the Mortgagors' records relating to the structural condition of the Real Property or environmental matters, or compliance of the Real Property with other applicable laws and to secure the obligations of the Mortgagors to the Lender in connection with the Note and Mortgage, and under this Property Inspection Easement, the Mortgagors hereby grant to the Lender a continuing security interest in and to all of the Mortgagors' records, existing and future, with respect to structural and/or environmental matters, and compliance with all applicable building codes, Environmental Laws and other applicable laws (including without limitation the ADA) whether or not located at the Real Property or elsewhere, whether or not in the possession of the Mortgagors, or some third party (including any federal, state or local agency or instrumentality), and whether or not written, photographic or computerized, and the proceeds and products thereof. Any information disclosed to the Lender hereunder shall be disclosed by the Lender only to its employees, directors, attorneys, environmental or structural consultants or authorized representatives.

The Lender, or its designated agent, employee or contractor, may interview any agent, contractor, tenant or employee of the Mortgagors, or any combination thereof, regarding structural and/or environmental matters and/or compliance with all applicable building codes and Environmental



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Laws, or other applicable laws including any consultants or experts retained by the Mortgagors, all of whom are directed to discuss structural and/or environmental issues fully and openly with the Lender or its designated agent, employee or contractor and to provide such information as may be requested. All of the costs and expenses incurred by the Lender at any time after the occurrence of an "Event of Default" (as defined in the Loan Agreement) with respect to the audits, tests, inspections and examinations which the Lender may conduct, including the fees of the engineers, laboratories and contractors, shall be paid by the Mortgagors. The Lender may, but shall not be required to, advance such costs and expenses on behalf of the Mortgagors. All sums so advanced shall bear interest at the rate provided in the Note and shall be secured by the Mortgage.

2. Duration and Defeasance. The easement granted hereby shall exist and continue until such time as all sums owed by the Mortgagors to the Lender in connection with the Note and Mortgage shall have been repaid in full. A release or satisfaction of the Mortgage shall constitute termination of the easement without the necessity of the execution or recording of any further document or instrument.

3. Enforcement. The Mortgagors acknowledge that no adequate remedy at law exists for a violation of the easement granted hereby and agrees that the Lender shall have the right to enforce the easement granted hereby by equitable writ or decree, including temporary and preliminary injunctive relief. In the event that the Lender is required to enforce its rights hereunder, the Mortgagors shall jointly and severally pay all of the Lender's costs and expenses in connection therewith, including all attorneys' fees incurred by the Lender.

4. Assignability. This easement shall be assignable and shall be considered assigned to whomever holds the indebtedness secured by the Mortgage.

5. Revocability. This easement, and the rights granted to Lender hereunder, is/are not revocable and may not be revoked by the Mortgagors.

6. Lender Not Mortgagee in Possession. The exercise of the rights granted hereunder shall not constitute the Lender a mortgagee in possession with respect to the Real Property.

7. Construction and Intention. This easement is intended to be and shall be construed as an interest in the Real Property and as an easement in gross. It is not intended to be a personal right of the Lender or a mere license.

8. Successors and Assigns. This agreement shall be binding upon the Mortgagors and their respective heirs, successors and assigns and shall benefit the Lender and its successors and assigns.



MICROFILMED
Page 3 of 7

IN WITNESS WHEREOF, the parties hereto have executed this Property Inspection Easement with the intention of creating an instrument effective as of the date and year first above written.

NORWEST BANK MINNESOTA,
NATIONAL ASSOCIATION

By: _____
Its: V.P.

GOODIN COMPANY

By: _____
Its: Pres

By: _____
Its: Sec

NORTH TIER LANDCO, LLC

By: _____
Its: Chief Mgr

STATE OF MINNESOTA )
) ss
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me this 4TH day of June, 1998, by STEVEN P. JOHNSON, the VICE PRESIDENT of Norwest Bank Minnesota, National Association, a national banking association, for and on behalf of said association.

_____
Notary Public

JOHN R. HALEY
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000



MICROFILMED
Page 4 of 7

STATE OF MINNESOTA )
) ss
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me this 4TH day of June, 1998, by Bernard D. Reisberg, the President, and Gregory D. Skagerberg, the Secretary, of Goodin Company, a Minnesota corporation, for and on behalf of said corporation.

Notary Public

JOHN R. HALEY
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000

STATE OF MINNESOTA )
) ss
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me this 4th day of June, 1998, by Bernard D. Reisberg, the Chief Manager of North Tier Landco, LLC, a Minnesota limited liability company, for and on behalf of said company.

Notary Public

JOHN R. HALEY
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
My Commission Expires Jan. 31, 2000

THIS INSTRUMENT DRAFTED BY:

WINTHROP & WEINSTINE, P.A.
3200 Minnesota World Trade Center
30 East Seventh Street
St. Paul, Minnesota 55101
Telephone: (612) 290-8400

STP1: 453699-1



MICROFILMED
Page 5 of 7

# EXHIBIT A

(Legal Description)

Lot One (1), Block One (1), Foundry Addition, Stearns County, Minnesota.

MICROFILMED
Page 6 of 7

RETURN DOCUMENTS TO:
TWIN CITIES COMMERCIAL DIVISION
ATI TITLE COMPANY
60 S. SIXTH ST. #2550
MINNEAPOLIS, MN 55402
FILE NO.: 9829133655

MICROFILMED
Page 7 of 7

19.50

908733

99 MAY 19 PM 2:25

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY M. Urbik DEPUTY

## ELECTRIC DISTRIBUTION EASEMENT

KNOW ALL BY THESE PRESENTS, That the undersigned, hereinafter called "Grantor", in consideration of the sum of $1.00 and other good and valuable consideration in hand paid by NORTHERN STATES POWER COMPANY, a Minnesota Corporation, the receipt and sufficiency whereof is hereby acknowledged, do hereby, grant unto said Company its successors and assigns, hereinafter called "Grantee", an easement with the right, privilege and authority to excavate for, construct, install, mark, inspect, operate, repair, alter, replace, reconstruct, remove and maintain its facilities for the transmission and distribution of electrical energy, including the necessary poles, wires, guys, stubs, electric cables, conduits, vaults, pedestals, manholes and facilities related and appurtenant thereto, over, across, under and upon said easement on the following described land situated in the County of Stearns, State of Minnesota, to-wit:

That part of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the Southeast corner of said SE1/4 SE1/4, thence North 90 degrees 00 minutes 00 seconds West, assumed bearing, along the South line thereof a distance of 693.00 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West a distance of 298.73 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 188.46 feet; thence North 89 degrees 36 minutes 13 seconds East a distance of 207.69 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 10.23 feet; thence South 89 degrees 57 minutes 55 seconds East a distance of 91.06 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 179.61 feet to the point of beginning. Containing 1.28 acres and subject to any easements of records.

Said easement shall be limited to: the West 10 feet of the above described property.

The grant of easement herein contained shall also include the right of reasonable access to said easement across said lands for the purpose of exercising the rights granted herein, together with the right to remove from said easement any structure, trees, shrubbery, or other object or obstruction which in Grantee's opinion interferes with said facilities or the removal of which may be reasonably necessary for the construction or maintenance thereof.

Except as otherwise provided herein in any Underground Distribution Agreement between the Grantor and Grantee covering the above described premises, Grantee shall, after installation of the above described electrical facilities, or after the exercise of any rights granted herein, restore the lands subject to this easement to as near their original condition as is reasonably possible and remove therefrom all debris, spoils, and equipment resulting from or used in connection with said installation.

MICROFILMED
Page 1 of 2

908733

Grantor further agrees that no structure or obstruction will be erected or permitted or any trees planted on or within said easement, that he will not change the ground elevation thereof without the written consent of Grantee, or perform any act which will interfere with or endanger said electrical facilities.

The grant herein contained shall also include the right of Grantee to permit the joint use of overhead facilities and joint undergrounding with public utility and cable television companies.

Grantor covenants with Grantee, its successors and assigns, that Grantor is the owner of the above described premises and has the right to sell and convey an easement in the manner and form aforesaid.

This instrument and the covenants and agreements contained herein are binding upon the Grantor, his personal representatives, heirs, successors and assigns.

The Grantor agrees to execute and deliver to NSP, at NSP's cost, without additional compensation any additional documents needed to correct the legal description of the easement area to conform to the right of way actually occupied by the transmission lines.

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

This instrument is exempt from the Minnesota Deed Tax.

**IN WITNESS WHEREOF**, the undersigned has caused this instrument to be duly executed as of the 13th day of May, 1999. Easement is automatically vacated to NSP after two years of no power transmission use.

Thomas Ardolf

Susan Ardolf

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 13th day of May, 1999, by Thomas Ardolf and Susan Ardolf, husband and wife.

JILL M. BAUER
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

Jill M. Bauer
NOTARY PUBLIC

This instrument was Drafted by: SDJ
Northern States Power Company
414 Nicollet Mall, Minneapolis, MN 55401
Line/Division: Dist- St. Cloud

MICROFILMED
Page 2 of 2

5/3/99 sdj J:\DSC\GROUPS\LAND\DIST\STEARNS\2812408ardolf1e.dot

3/1950

9-11165

99 JUN 15 PM 12:32

MORTGAGE REGISTRATION TAX 1380 00
Randy R Schriefer
STEARNS COUNTY AUDITOR
DEPUTY AUDITOR

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY S. Stenseth DEPUTY

State of Minnesota — Space Above This Line For Recording Data

# REAL ESTATE MORTGAGE
(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is JUNE 10, 1999 and the parties and their addresses are as follows:

MORTGAGOR: THOMAS ARDOLF
AS HUSBAND AND WIFE
411 3RD STREET NORTH
WAITE PARK, MN 56387
SOCIAL SECURITY #: 469-86-2698

SUSAN ARDOLF
AS HUSBAND AND WIFE
411 3RD STREET NORTH
WAITE PARK, MN 56387
SOCIAL SECURITY #: 471-60-8278

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: PLAZA PARK BANK
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MINNESOTA
17 DIVISION ST. / P.O. BOX 337
WAITE PARK, MN 56387
TAXPAYER I.D. #: 41-0557320

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells, conveys and mortgages to Lender, with the power of sale, the following described property: REFER TO EXHIBIT 'A' WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

27 TRES09 990020369 MR STATE % PAID $1,380.00 6/15/1999 9:06:01

The property is located in STEARNS (County) at
411 3RD STREET NORTH (Address), WAITE PARK (City), Minnesota 56387 (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

3. **MAXIMUM OBLIGATION LIMIT.** Notwithstanding anything to the contrary herein, the maximum principal indebtedness secured by this Security Instrument is $ 600,000.00 . This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:
   A. The promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt): PROMISSORY NOTE DATED JUNE 10, 1999
   (e.g., borrower's name, note amount, interest rate, maturity date)

19.50

EXTENSION OF MORTGAGE. Form No. 49. OSWALD PUBLISHING CO., NEW ULM, MINN.
By Corporation and Individual. Minnesota Uniform Conveyancing Blanks

914662

This Agreement, *Made this* 16th *day of* JUNE, *19* 99, *between* PLAZA PARK BANK

*a corporation under the laws of the State of* MINNESOTA, *party of the first part, and*

THEISEN DESIGN AND MANUFACTURING, INC. A CORPORATION *of the County of* STEARNS *and State of* MINNESOTA, *part* Y *of the second part,*

*Witnesseth, That whereas the said party of the first part, is the owner and holder of a certain promissory note for* NINETY SIX THOUSAND AND NO/100ths---------- *DOLLARS, made by* THEISEN DESIGN AND MANUFACTURING, INC. A CORPORATION *dated* APRIL 10, *19* 90, *payable to the order of* PLAZA PARK BANK *and which note is secured by mortgage on real estate owned by said part* Y *of the second part, situated in the County of* STEARNS *and State of Minnesota, and recorded in the office of the County Recorder of said County, in Book of Mortgages on page*, DOCUMENT #0685223

*And, Whereas, There is now due on said note and mortgage the sum of* FIFTY FOUR THOUSAND SIX HUNDRED FORTY AND 45/100ths---------- *DOLLARS,*

*And Whereas, at the special instance and request of the said part* Y *of the second part, as the present owner of said real estate, the party of the first part does hereby extend the time and payment of the balance due on said note and mortgage from* JULY 10, *19* 99, *to* DECEMBER 10, 2004

*Now, Therefore, In consideration of said extension, said part* Y *of the second part do* ES *hereby agree with the said party of the first part to pay said principal sum at its maturity, as hereby extended, with interest thereon, until fully paid, at the rate of* 8.50% *per cent per annum, payable* IN MONTHLY INSTALLMENTS OF $1052.00 COMMENCING AUGUST 10, 1999

*It is hereby further agreed that all the stipulations, provisions, conditions and covenants of said principal note and mortgage shall remain in full force and effect, except as herein modified, and nothing herein contained shall be construed to impair the security or lien of the holder of said mortgage, nor to affect nor impair any rights or powers which it may have under said note and mortgage for nonfulfillment of this agreement.*

*In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its* VICE *President and its* VICE PRESIDENT *and its corporate seal to be hereunto affixed, and said part* Y *of the second part* HAVE *hereunto set* THEIR *hand* S *the day and year first above written.*

Seal

PLAZA PARK BANK

By JAMES E. SCHLEPER V.P.

*Its* VICE *President*

DAN J. HAGEN

*Its* VICE PRESIDENT

PETER S. THEISEN, PRESIDENT

JOHN A. THEISEN, SECRETARY/TREASURER

914662

99 JUL 26 PM 1:12

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY MLang DEPUTY

# STANDARD FORM
# STATE OF MINNESOTA
# UCC-3 STATEMENT OF
# CONTINUATION, ASSIGNMENT, RELEASE, ETC.

For Filing Officer

924627

99 NOV 12 PM 2:10

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D. Knobloch DEPUTY

**This statement is presented for filing pursuant to *Minnesota Uniform Commercial Code Minnesota Statutes Chapter 336.9-402*** (Type in Black Ink)

**1. Original Financing Statement No.** 830716

**Original File Date** September 26, 1996

**2. DEBTOR** (Name and Address)

Park Press Quality Printing, Incorporated
355 North Sixth Avenue
Waite Park, MN 56387

TAX ID# 41-1387921

**3. SECURED PARTY** (Name and Address)

U.S. Small Business Administration
610-C Butler Square
100 North Sixth Street
Minneapolis, MN 55403-1563

The financing statement described above is changed to show a(n): (Please one function per form with the exception of amendment)

☐ **4. CONTINUATION** the original financing statement bearing the file number shown above is continued for an additional 5 years. The original statement is still effective.

☒ **5. AMENDMENT** the original financing statement bearing the file number shown above is amended as described in BOX 10. See instruction 5 on the reverse side for additional information.

☐ **6. TOTAL ASSIGNMENT** all of the secured party's rights under the original financing statement have been assigned to the assignee whose name and address appear in BOX 10.

☐ **7. PARTIAL ASSIGNMENT** some of the secured party's rights have been assigned to the Assignee whose name and address appear in BOX 10. A description of the collateral subject to the assignment must also be given.

☐ **8. PARTIAL RELEASE** the secured party releases the collateral described in BOX 10 but retains a security interest in the original financing statement bearing the file number shown above.

☐ **9. TERMINATION** the secured party of record no longer claims a security interest under the financing statement bearing the file number shown above.

**10.**

Secured party agrees that security interest evidenced by above financing statement is subordinated to rights of American Heritage National Bank Evidenced by financing statement filed September 3, 1998 as instrument NO. 2066003.

See attached legal description and description of collateral.

**RETURN ACKNOWLEDGEMENT COPY TO: (name and address)**

Minnesota Business Finance Corporation
4140 Theilman Lane
Suite 304
St. Cloud, MN 56301
320/255-1685

Please do not type outside the bracketed area.

**SCR** 1 **of** 2

Debtor Signature

Secured Party

Date

APPROVED SBA GSF

Approved by Secretary of State of Minnesota

(1) Filing Officer Copy - Alphabetical amend819 Rev. 5/93

Bankers Systems, Inc., St. Cloud, MN Form UCC-3-MN 12/16/93

For American Heritage Bank, PO Box 160, St. Cloud

924627

That part of the Southwest quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south Quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 63.30 feet, thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Subject to a utility easement over, under and across the east 50 feet of the south 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8: thence North at right angles to said south line of distance of 370.00 feet and there terminating.

ONE (1) NEW HEIDELBERG MODEL 72 SP+L SIX COLOR OFFSET PRESS WITH COATING TOWER, PERFECTING BETWEEN UNITS 2 AND 3, ALCOLOR DAMPENING, CP TRONIC AND ALL STANDARD EQUIPMENT. ALSO ONE (1) CENTRAL AIR CABINET, GRAFIX I.R. DRYER MODEL SKI250 WITH AIR KNIFE, CPC 1-03 AND OXY DRY SPRAY UNIT MODEL 202. PRESS SIZE - 20-1/2 x 28-3/8. SERIAL NUMBER #537023.

19.50

EXTENSION OF MORTGAGE. Form No. 49. OSWALD PUBLISHING CO., NEW ULM, MINN.
By Corporation and Individual. Minnesota Uniform Conveyancing Blanks

**931363**

**This Agreement,** *Made this* 11th *day of* FEBRUARY, 2000, *between* PLAZA PARK BANK

*a corporation under the laws of the State of* MINNESOTA, *party of the first part, and*

THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE *of the County of* STEARNS *and State of* MINNESOTA, *part* Y *of the second part,*

*Witnesseth, That whereas the said party of the first part, is the owner and holder of a certain promissory note for* ONE HUNDRED SEVENTY THOUSAND AND NO/100ths--------*DOLLARS, made by* THOMAS ARDOLF AND SUSAN ARDOLF, AS HUSBAND AND WIFE *dated* JANUARY 27, 1994, ....., *payable to the order of* PLAZA PARK BANK *and which note is secured by mortgage on real estate owned by said part* Y *of the second part, situated in the County of* STEARNS *and State of Minnesota, and recorded in the office of the County Recorder of said County, in Book of Mortgages on page* ..... DOCUMENT #767620

*And, Whereas, There is now due on said note and mortgage the sum of* ONE HUNDRED FORTY THREE THOUSAND FIVE HUNDRED TWENTY AND 70/100ths--*DOLLARS,*

*And Whereas, at the special instance and request of the said part* Y *of the second part, as the present owner of said real estate, the party of the first part does hereby extend the time and payment of the balance due on said note and mortgage from* FEBRUARY 10, 2000, ....., *to* FEBRUARY 10, 2005

*Now, Therefore, In consideration of said extension, said part* Y *of the second part do* es *hereby agree with the said party of the first part to pay said principal sum at its maturity, as hereby extended, with interest thereon, until fully paid, at the rate of* 8.75% *per cent per annum, payable* IN MONTHLY INSTALLMENTS OF $1508.00 COMMENCING MARCH 10, 2000

*It is hereby further agreed that all the stipulations, provisions, conditions and covenants of said principal note and mortgage shall remain in full force and effect, except as herein modified, and nothing herein contained shall be construed to impair the security or lien of the holder of said mortgage, nor to affect nor impair any rights or powers which it may have under said note and mortgage for nonfulfillment of this agreement.*

*In Testimony Whereof, The said first party has caused these presents to be executed in its corporate name by its* VICE *President and its* VICE PRESIDENT *and its corporate seal to be hereunto affixed, and said part* Y *of the second part ha* VE *hereunto set* THEIR *hand* S *the day and year first above written.*

Seal

PLAZA PARK BANK

By JAMES E. SCHLEPER

Its VICE President

GREGORY L. TSCHIDA

Its VICE PRESIDENT

THOMAS ARDOLF

SUSAN ARDOLF

931363

00 FEB 14 AM 11:51

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY ..... DEPUTY

1/1950 (27)

944528

# CONSENT TO PLAT OF GOODIN

Goodin Company, the Lessee on that certain Lease memorialized by a Memorandum Lease dated June 4, 1998, filed July 7, 1998, as Document No. 878750, hereby in all respects consents to the Plat of Goodin, Stearns County, Minnesota filed in the office of the Stearns County Recorder on March 7, 2000, as Document No. 932786.

GOODIN COMPANY

Date: August 2, , 2000

By Gerard O. Melgaard
Gerard O. Melgaard
Its President

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before this 2nd day of August, 2000, by Gerard O. Melgaard, the President of Goodin Company, a Minnesota corporation, on behalf of said corporation.

Eric J. Lindstrom
Notary Public

ERIC J. LINDSTROM
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

944528

00 AUG -7 PM 3:51

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY M. Urbrock DEPUTY

THIS INSTRUMENT DRAFTED BY:

Eric J. Lindstrom
Lindstrom Law Offices
7600 Parklawn Avenue, Suite 444
Edina, MN 55435

SCR 1 of 1

7/1950

458.70

MD Form No. 7-M – WARRANTY DEED Minnesota Uniform Conveyancing Blanks (6/1/97) Miller-Davis Co., St. Paul, MN

Corporation, Partnership or Limited Liability Company to Individual(s)

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ✓ ) filed ( ) not required
Certificate of Real Estate Value No. _____
August 7, 2000
(Date)
Randy A. Schreifels
County Auditor
by Joan M. Rothstein
Deputy
82-47182-102

944531

00 AUG -7 PM 3:51

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY M. Urbia DEPUTY

(reserved for recording data)

DEED TAX DUE: $ 458.70

Date: August 3, 2000

FOR VALUABLE CONSIDERATION, North Tier Landco, LLC

a limited liability company under the laws of Minnesota
Grantor, hereby conveys and warrants to Dan G. Feneis

Grantee, real property in Stearns County, Minnesota, described as follows:

Lot 2, Block 1, Goodin

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: See Schedule A attached hereto and made a part hereof.

Check box if applicable:
- ☐ The Seller certifies that the seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document.
- ☑ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

NORTH TIER LANDCO, LLC

By Bernard D. Reisberg
Bernard D. Reisberg
Its Chief Manager

Affix Deed Tax Stamp Here

STATE OF MINNESOTA
COUNTY OF HENNEPIN } ss.

By _____

Its _____

This instrument was acknowledged before me on August 3, 2000
(Date)

by Bernard D. Reisberg xxxx
the Chief Manager xxxx
of North Tier Landco, LLC

a limited liability company under the laws of Minnesota
on behalf of the limited liability company

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

ERIC J. LINDSTROM
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Eric J. Lindstrom
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Check here if part or all of the land is Registered (Torrens) ☐

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Dan G. Feneis
301 Sundial Drive
Waite Park, MN 56387

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Eric J. Lindstrom
Lindstrom Law Offices
7600 Parklawn Avenue
Suite 444
Edina, MN 55435-
952-831-2363
235283

27 TRES09 000022500 DEED TX % PAID $458.70 8/07/2000 15:18:26

SCR 1 of 2

# STANDARD FORM
# STATE OF MINNESOTA
# UCC-3 STATEMENT OF
# CONTINUATION, ASSIGNMENT, RELEASE, ETC.

For Filing Office 971425

01 JUN 20 PM 12:47

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY T Schmidt DEPUTY

**This statement is presented for filing pursuant to *Minnesota Uniform Commercial Code Minnesota Statutes Chapter 336.9-402*** (Type in Black Ink)

| 1. Original Financing Statement No. | Original File Date |
|---|---|
| 830716 | September 26, 1996 |

| 2. DEBTOR (Name and Address) | 3. SECURED PARTY (Name and Address) |
|---|---|
| Park Press Quality Printing, Inc.<br>355 North Sixth Avenue<br>Waite Park, MN 56387<br><br>ID #41-1387921 | U.S. Small Business Administration<br>610-C Butler Square<br>100 North Sixth Street<br>Minneapolis, MN 55403-1563 |

The financing statement described above is changed to show a(n): (Please one function per form with the exception of amendment)

- ☒ **4. CONTINUATION** the original financing statement bearing the file number shown above is continued for an additional 5 years. The original statement is still effective.
- ☐ **5. AMENDMENT** the original financing statement bearing the file number shown above is amended as described in BOX 10. See instruction 5 on the reverse side for additional information.
- ☐ **6. TOTAL ASSIGNMENT** all of the secured party's rights under the original financing statement have been assigned to the assignee whose name and address appear in BOX 10.
- ☐ **7. PARTIAL ASSIGNMENT** some of the secured party's rights have been assigned to the Assignee whose name and address appear in BOX 10. A description of the collateral subject to the assignment must also be given.
- ☐ **8. PARTIAL RELEASE** the secured party releases the collateral described in BOX 10 but retains a security interest in the original financing statement bearing the file number shown above.
- ☐ **9. TERMINATION** the secured party of record no longer claims a security interest under the financing statement bearing the file number shown above.

**10.**

**RETURN ACKNOWLEDGEMENT COPY TO: (name and address)**

Drafted By:

Minnesota Business Finance Corp.
4140 Thielman Lane Suite # 304
St. Cloud, MN 56301
Attn: Loan Servicing Officer

Please do not type outside the bracketed area.

Minnesota Business Finance Corp.
Attorney in Fact for the U.S. Small Business Administration

Debtor Signature

Secured Party Lori Yurczyk 6/15/01 Date

Lori Yurczyk, Loan Servicing Officer

(1) Filing Officer Copy - Alphabetical amend819 Rev. 11/99

Approved by Secretary of State of Minnesota

Bankers Systems, Inc , St. Cloud, MN Form UCC-3-MN 3/10/2000

SCR 1 of 2

F

971425

State of Minnesota
County of Stearns

On June 15, 2001 before me, Tammy Braegelmann, a Notary Public, personally appeared Lori Yurczyk, personally known to me to be the person whose name is subscribed to this instrument and acknowledged to me that he/she executed this instrument in his/her authorized capacity, and that by his/her signature on the instrument the United States Small Business Administration executed the instrument.

WITNESS my hand and official seal.

Signature Tammy L. Braegelmann

TAMMY L. BRAEGELMANN
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Drafted by: Minnesota Business Finance Corporation
4140 Thielman Lane Suite # 304
St. Cloud, Minnesota 56301
Attention: Loan Servicing Officer

20.00 (50)

982197

STATE OF MINNESOTA

COUNTY OF STEARNS

IN DISTRICT COURT

SEVENTH JUDICIAL DISTRICT
CASE TYPE: Condemnation
COURT FILE NO: C3-00-4021

City of Waite Park,

Petitioner,

vs.

Burlington Northern and Santa Fe Railway Company, a Delaware Corporation

Respondents.

STATE OF MINNESOTA
COUNTY OF STEARNS
I hereby certify that I have compared the foregoing papers with the original recorded in my office, consisting of two (2) pages, and that it is a true and correct copy of said original.
Dated: 9-24-01
KARL E. THOENNES, III, Court Administrator
By: Lisa Braaten Deputy

**FINAL CERTIFICATE IN CONDEMNATION**

I, Gordon H. Hansmeier, city attorney of the City of Waite Park, petitioner herein, do hereby certify that an estate in fee simple absolute (an easement) has been taken by the petitioner in the following described real property by eminent domain proceedings pursuant to Minnesota Statutes, Chapter 117 or the purpose of water treated plant purposes:

Part of the South Half of the Southwest Quarter § ½ SW ¼) of Section 9, Township 124 North, Range 28 in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East 1363.55 feet to the point of beginning; thence continue South 89 degrees 57 minutes 55 seconds East 250.70 feet; thence South 78 degrees 37 minutes 20 seconds East 755.25 feet; thence South 00 degrees 00 minutes 33 seconds West 31.52 feet; thence North 89 degrees 59 minutes 27 seconds West 991.10 feet; thence North 00 degrees 00 minutes 00 seconds East 180.51 feet to the point of beginning. Containing 2.84 acres.

✓env
Rajowski Hansmeier

982197

That on November 3, 2001, the above-named court entered into its order granting the petition for the taking of such land and appointed commissioners to ascertain and report the amount of damages sustained by the owners on account of such taking; that the commissioners filed their award of damages for the taking of such land; that no appeals have been filed with the court; that all awards made by the commissioners have been paid; and that all necessary proceedings for the taking of such land are now completed in accordance with the provisions of Minnesota Statutes, Chapter 117.

Dated this 14th day of August, 2001.

City of Waite Park

By Gordon H Hansmeier

Gordon H. Hansmeier - 40770
City Attorney for Waite Park
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302-1433
Telephone: (320) 251-1055

Approved:

District Court of Stearns County

By S Kippley Kean
Judge

Dated at St Cloud, Minnesota
this 4 day of September, 2001.

DISTRICT COURT
STEARNS COUNTY, MN
FILED

SEP 07 2001

KARL E. THOENNES, III
COURT ADMINISTRATOR
BY: DEPUTY

982197

01 SEP 27 PM 1:04

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D Knoblach DEPUTY

SCR 3 of 3

984975

01 OCT 19 PM 2:14

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY Aschlichting DEPUTY

## EASEMENT

This indenture made this 9th day of October, 2001, between the City of Waite Park, a municipal corporation organized under the laws of the State of Minnesota, party of the first part, and St. Cloud Amateur Radio Club, Inc., a Minnesota corporation, party of the second part.

WITNESSETH: That the said party of the first part in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration to them in hand paid by said party of the second part, receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, quitclaim and convey unto the said party of the second part, its successors and assigns:

A parking easement over a parcel of land which lies contiguous and west of the following described parcel:

A parcel of land situated in the SE ¼ SE ¼ of Section 8, Township 124 North, Range 28 West of the 5th P.M., Stearns County, Minnesota described as follows, to-wit:

Commencing at the Southeast corner of said Section 8; thence North along the East line of said Section 8 a distance of 165.29 feet to the Southerly boundary of the Burlington Northern and Santa Fe Railway Company; thence North 89 degrees 59 minutes 25 seconds West, along said Southerly boundary a distance of 600.82 feet; thence North 00 degrees 02 minutes 05 seconds East, 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West, 183.34 feet to the True Point of Beginning; thence North 00 degrees 02 minutes 05 seconds East, 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East, 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West, 97.30 feet; thence North 89 degrees 57 minutes 55 seconds West, 113.34 feet to the True Point of Beginning.



JAN-13-2010 13:01 STEARNS COUNTY AUDITORT 320 656 3916 P.02/11

Said parking easement is described as follows: Beginning on the west line of said parcel 21.07 feet south of the northwest corner; thence South 89 degrees 36 minutes 13 seconds West 90.0 feet; thence South 00 degrees 23 minutes 47 seconds West 43.00 feet; thence east to a point on the west line of said parcel distant 46.23 feet south of the point of beginning; thence North 00 degrees 02 minutes 05 seconds East along said west line 46.23 feet south of the point of beginning.

TO HAVE AND TO HOLD unto said party of the second part, its successors and assigns.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands the date and year first above written.

ST. CLOUD AMATEUR RADIO CLUB, INC.

Charles Groff

By V-P St Cloud Radio Club

CITY OF WAITE PARK

By: _____

Richard Miller
Its Mayor

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 9th day of October, 2001, by Charles Groff, the Vice President of St. Cloud Amateur Radio Club, Inc., a Minnesota Corporation.

NOTARIAL STAMP OR SEAL
(OR OTHER TITLE OR RANK)

GORDON H. HANSMEIER
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Gordon H Hansmeier

SIGNATURE OF PERSON
TAKING ACKNOWLEDGMENT





JAN-13-2010 13:02 STEARNS COUNTY AUDITORT 320 656 3916 P.03/11

984975

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 5th day of October, 2001, by Richard Miller, the Mayor of the City of Waite Park, a municipal corporation, under the laws of the State of Minnesota, on behalf of the City of Waite Park.

NOTARIAL STAMP OR SEAL
(OR OTHER TITLE OR RANK)

GORDON H. HANSMEIER
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Gordon H Hansmeier
SIGNATURE OF PERSON
TAKING ACKNOWLEDGMENT

THIS INSTRUMENT WAS DRAFTED BY:
Gordon H. Hansmeier - 40770
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302-1433
Telephone: (320) 251-1055



SCR 3 of 3

JAN-13-2010 13:02 STEARNS COUNTY AUDITORT 320 656 3916 P.04/11

984976

01 OCT 19 PM 2:15

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY DSchlichting DEPUTY

# EASEMENT

This indenture made this 9th day of October, 2001, between St. Cloud Amateur Radio Club, Inc., a Minnesota corporation, party of the first part, and the City of Waite Park, a municipal corporation organized under the laws of the State of Minnesota, party of the second part.

WITNESSETH: That the said party of the first part in consideration of the sum of One ($1.00) Dollar and other good and valuable consideration to them in hand paid by said party of the second part, receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, quitclaim and convey unto the said party of the second part, its successors and assigns:

A 30 foot perpetual roadway easement over and across the south 30.00 feet of the following described property of record:

A parcel of land situated in the SE ¼ SE ¼ of Section 8, Township 124 North, Range 28 West of the 5th P.M., Stearns County, Minnesota described as follows, to-wit:

Commencing at the Southeast corner of said Section 8; thence North along the East line of said Section 8 a distance of 165.29 feet to the Southerly boundary of the Burlington Northern and Santa Fe Railway Company; thence North 89 degrees 59 minutes 25 seconds West, along said Southerly boundary a distance of 600.82 feet; thence North 00 degrees 02 minutes 05 seconds East, 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West, 183.34 feet to the True Point of Beginning; thence North 00 degrees 02 minutes 05 seconds East, 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East, 113.34 feet; thence South 00 degrees 02 minutes 05 seconds West, 97.30 feet; thence North 89 degrees 57 minutes 55 seconds West, 113.34 feet to the True Point of Beginning.

SCR 1 of 3

JAN-13-2010 13:02 STEARNS COUNTY AUDITOR 320 656 3916 P.05/11

TO HAVE AND TO HOLD unto said party of the second part, its successors and assigns.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands the date and year first above written.

ST. CLOUD AMATEUR RADIO CLUB, INC.

Charlie Graff

By V-P Radio Club

CITY OF WAITE PARK

By: _____
Richard Miller
Its Mayor

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 9th day of October, 2001, by Charlie Graff, the Vice President of St. Cloud Amateur Radio Club, Inc., a Minnesota Corporation.

NOTARIAL STAMP OR SEAL
(OR OTHER TITLE OR RANK)

GORDON H. HANSMEIER
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Gordon H Hansmeier

SIGNATURE OF PERSON
TAKING ACKNOWLEDGMENT

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 9th day of October, 2001, by Richard Miller, the Mayor of the City of Waite Park, a municipal corporation, under the laws of the State of Minnesota, on behalf of the City of Waite Park.

NOTARIAL STAMP OR SEAL
(OR OTHER TITLE OR RANK)

GORDON H. HANSMEIER
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Gordon H Hansmeier

SIGNATURE OF PERSON
TAKING ACKNOWLEDGMENT



JAN-13-2010 13:02 STEARNS COUNTY AUDITORT 320 656 3916 P.06/11

984976

THIS INSTRUMENT WAS DRAFTED BY:
Gordon H. Hansmeier - 40770
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302-1433
Telephone: (320) 251-1055



SCR 3 of 3

JAN-13-2010 13:02 STEARNS COUNTY AUDITORT 320 656 3916 P.07/11

3000 NS

Lot 7, Block 1, West River Business

996097

02 JAN 18 PM 3:30

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY Schmidt DEPUTY

JAN 09 2002

Units 1, 2, 3, 4, 5, 6, 7
CIC No. 72
West River Business Park
Condominiums

**MODIFICATION OF EASEMENT AND DECLARATION OF RESTRICTIONS AND COVENANTS**

THIS MODIFICATION OF EASEMENT AND DECLARATION is made this 21 day of Dec, 2001, by West River Business Park Partnership LL.P.

WITNESSETH:

WHEREAS, West River Business Park Partnership, L.L.P. ("Owner") is the owner of real property legally described herein (the "Property"), located in the City of Waite Park, Stearns County; Minnesota; and

WHEREAS, the Property is subject to an Easement and Declaration of Restrictions and Covenants, granted by the City of Waite Park on May 6, 1997, to the Minnesota Pollution Control Agency (MPCA) and recorded by the Stearns County Registrar of Deeds as Document Number 845329 {the "Original Easement"); and

WHEREAS, the Owner acquired title to the Property from the City of Waite Park, and is the successor-in-interest of the City with respect to the rights and obligations under the Original Easement as it applies to the Property; and



Env – Hall : Byers

WHEREAS, the Original Easement may be modified by the Owner with the written consent of the Commissioner of the MPCA; and

WHEREAS, the Owner of the Property has requested the MPCA Commissioner to approve a modification of the use restrictions that apply to the Property under the Original Easement and has submitted an Affidavit dated DEC 14, 01 describing the proposed use for which a modification has been requested, which Affidavit is attached hereto as Exhibit A; and

WHEREAS, the MPCA Commissioner or her delegate, has reviewed the Owner's request and has approved the requested modification to the Original Easement for the Property;

NOW THEREFORE, the Original Easement is MODIFIED as follows:

1. Property.

This Modification applies to real property located in the City of Waite Park, Stearns County, Minnesota, legally described as:

Lot Seven (7), Block One (1), West River Business Park Addition

(the "Property"). This modification does not apply to any other real property described in the Original Easement.

2. Use Restriction Modified.

The use restriction applicable to the Property under Section 3, clause (a) of the Original Easement is modified to allow the operation of a charter school in the currently existing structure located on the Property in accordance with the more specific description of the operation as set forth in the Affidavit attached hereto as Exhibit A.

3. Other Terms and Conditions Remain In Force.

Except for the modification set forth in Section 2 herein, which is deemed to be incorporated in the Original Easement, all of the use restrictions, and other terms and conditions of the Original Easement shall continue to apply to the Property.

In WITNESS WHEREOF, this instrument has been executed on the day and year first above written.

West River Business Park
Partnership, L.L.P.

By _____

Title: _____

State of Minnesota )
) ss.
County of Hennepin )

The foregoing instrument was acknowledged before me this 21 day of December, 2004, by Ronald A. Morton of West River Business Park Partnership, L.L.P.

_____
Notary Public

LINDA M. DAY
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan 31, 2005

Accepted on behalf of
Minnesota Pollution Control Agency
Pursuant to Minn. Stat. § 115B.17, subd. 15

By James C. Warner
James Warner
Delegate of Karen A. Studders
Commissioner

State of Minnesota )
)ss.
County of Ramsey )

The foregoing instrument was acknowledged before me this 14th day of January, 2002, by James Warner, delegate of the Commissioner of the Minnesota Pollution Control Agency, a Minnesota body politic, on behalf of the State of Minnesota.

GAIL A. SKOWRONEK
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES
JANUARY 31, 2005

Gail A. Skowronek
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Alan C. Williams
Assistant Attorney General
Attorney General's Office
445 Minnesota Street, Suite 900
St. Paul, MN 55101

AG: 521624,v. 01

EXHIBIT A

Ronald A. Morton of St. Cloud MN, being first duly sworn on oath, deposes and says that the following is true and correct based on his information and belief:

1. I am, and at all times relevant hereto have been, General Partner of West River Business Park partnership, L.L.P. (West River). In such capacity, I have had managerial responsibility for the properties owned by West River.

2. West River is the owner of that portion of West River Business Park Addition (Property) located at the intersection of 10th Avenue North and 3rd Street West in the City of Waite Park (City) County of Stearns, State of Minnesota, which includes that certain parcel legally described as follows:

   Lot Seven (7), Block One (1), West River Business Park Addition

3. The property is a 22-acre site, which had previously been used by Burlington Northern Santa Fe Railroad (BN) as a repair facility for its railroad cars and engines. As a result of this use, and the deposit of waste material byproducts of this use on the site, the site became contaminated and cleanup was ordered by the Environmental Protection Agency and the Minnesota Pollution Control Agency (MPCA). The City acquired the site from BN as part of the cleanup process in which BN agreed to remain responsible for any future cleanup required as the property developed. The Owner acquired the Property from the City in May of 1996 subject to it being developed in accordance with the terms of a Development Agreement between the Owner and the City dated May 1996.

4. Prior to acquisition of the Property by the Owner, the MPCA and BN worked to clean up the entire BN site. Upon acquisition of the Property by the Owner, the Owner began working with the MPCA through its Voluntary Investigation and Cleanup program to develop the site. A development plan and site safety plan was filed with the MPCA setting out the development to occur and the procedures to be followed if contaminants were discovered. The Owner has proceeded in accordance with these plans.

5. Development of Lot 7 started in the fall of 1997 with a warehouse/office facility proposed for the lot. A geotechnical soil evaluation was conducted in the first quarter of 1997, utilizing procedures that conformed with the site safety plan. Following this evaluation and during subsequent construction activities, contaminants were found and construction activities were stopped while additional subsurface investigation was conducted to determine the extent and magnitude of impacted soil. In accordance with a draft master response action plan dated October 20,1998, which plan was approved for implementation on Lot 7 by the MPCA, excavation of the contaminated soil on Lot 7 was commenced. Excavation of contaminated soil to a depth of four feet below final landscape grade, four feet-nine inches below final grade of pavement rated for heavy duty traffic areas and two fee-nine inches below final grade of pavement rated for light duty traffic areas was commenced on November 12, 1998, and completed on April 9, 1999. Construction of the warehouse/office facilities on Lot 7 was completed in the third quarter of 2001.

6. The clean up conducted by BN was to commercial industrial standards. Soil exceeding 1000 ppm lead within four feet of the ground surface was removed. Therefore, some areas of the property contain soil contaminated with lead at concentration up to 1000 ppm at depths of four feet and greater from the ground surface. This soil exceeds the residential soil standard of 400 ppm for all soils within eight feet of the ground surface.

7. The property is the subject of an Easement and Declaration of Restrictions and Covenants dated May 6, 1997 (Restrictive Covenant), which, among other things, limits the uses of the Property and excludes certain specifically identified uses.

8. This Affidavit is made to describe the proposed use of the Property for a charter school, in connection with a requested modification of the Restrictive Covenant.

9. West River Business Park proposes to lease a portion of the currently existing building on the Property for use by a charter school. This proposed use is more specifically described as follows:

   a. The space consists of 5,395 square feet.
   b. The school will have grades 9-12
   c. Ages of the (55) students will be 15-19
   d. Hours of operation will be from 8:00 AM to 5:00 PM
   e. There will be no outside activities, no playground areas or equipment.

Ronald A. Morton

Managing Partner
West River Business Park Partnership, L.L.P.
12/14/01

400

998011

02 FEB -5 PM 3:26

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY [signature] DEPUTY

**EASEMENT**

**KNOW ALL MEN BY THESE PRESENTS,** that **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY,** (formerly Burlington Northern Railroad company), a Delaware corporation, whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, Grantor, for Two Thousand Five Hundred and No/100 Dollars **($2,500.00)** to it paid by **QWEST CORPORATION,** Grantee, and the promises of the Grantee hereinafter specified, does hereby remise, release and quitclaim unto the Grantee, subject to the terms and conditions hereinafter set forth, an **EASEMENT** for the construction and maintenance of concrete pad, metal cabinets and appurtenances thereto for telecommunications purposes together with access rights, hereinafter called telecommunications, over, upon and across the following described premises, situated in Stearns County, State of Minnesota, to-wit:

That portion of the SW¼SW¼ of Section 9, Township 124 North, Range 28 West of the 5th P. M., Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 9; thence South 89° 21' 28" East 1208.80 feet along the south line of said Section 9; thence North 00° 38' 32" East 74.32 feet to a point on the north line of 3rd Street North and the **True Point of Beginning** for the easement to be described; thence North 58° 11' 12" East 73.38 feet; thence North 88° 47' 00" West, 50.76 feet; thence South 01° 13' 00" West 20.00 feet; thence South 88° 47' 00" East, 8.99 feet; thence South 58° 11' 12" West, 36.69 feet to the north line of 3rd Street North; thence South 88° 47' 00" East along said north line of 3rd Street North 11.01 feet to the **True Point of Beginning.**

**RESERVING,** however, unto the Grantor, its successors and assigns, the right to construct, place, operate, maintain, alter, repair, replace, renew, improve and remove communication lines above, below and on the surface of the premises, including, without limitation, transmission by conduit, fiber optics, cable, wire or other means of electricity, voice data, video, digitized information, or other materials or information, pipelines, utility lines, track and facilities including the right of ingress and egress in any such manner as does not unreasonably interfere with Grantee's use of the premises for said telecommunications, and further reserving unto Grantor, its successors and assigns, all right and privilege of ingress and egress to said premises as Grantor, its successors and assigns may require to investigate and remediate environmental contamination and hazards, and further reserving the right and privilege to use said land for any and all purposes not inconsistent with the use thereof for said telecommunications purposes.

Utility Engineering
Attn: Pete Nelson
[illegible]
Mpls, MN 55121

SCR 1 of 8

The foregoing easement is made subject to and upon the following express conditions:

1. To existing interests in the above-described premises to whomsoever belonging and of whatsoever nature and any and all extensions and renewals thereof, including but not limited to underground pipe line or lines, or any type of wire line or lines, if any.

2. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of said telecommunications shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing.

3. The Grantee shall bear the cost of removal, relocation or reconstruction of any and all right of way fences, telephone or telegraph poles, or other facilities, the removal, relocation or reconstruction of which may be made necessary by reason of the use of said premises for said telecommunications purposes.

4. The Grantee shall, at its own cost and expense, make adjustment with industries or other lessees of Grantor for buildings or improvements that may have to be relocated, reconstructed or destroyed by reason of the construction and maintenance of said telecommunications on said premises.

5. This instrument is granted according to the terms and conditions of that certain Letter Agreement for Longitudinal Easements between the Grantor and the Grantee accepted by Grantee on December 21, 2001 and signed by Grantor on January 25, 2002, and made subject to the terms and conditions contained therein.

6. If during the construction or subsequent maintenance of said telecommunications, soils or other materials considered to be environmentally contaminated are exposed, Grantee will notify Grantor. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination. In Grantee's acceptance of this condition, it assumes responsibility for all environmental contamination conditions caused or created by itself, its contractors, designees and other third parties but shall not assume indemnification or environmental contamination caused or created by the Grantor, its contractors or designees.

7. On condition that Grantee on behalf of itself, its successors and assigns, by acceptance hereof, covenants and agrees not to construct, without the prior written consent of Grantor, any additional structures on or within the easement herein granted and further agrees that if the present telecommunications located on the premises is at any time in the future removed, raised, relocated or destroyed by an act of man or nature, no new structure will be built or rebuilt on these premises.

8. The Grantee agrees to keep the above-described premises free and clear from combustible materials during the time period Grantee is installing and constructing the street and utilities and, in addition thereto, the Grantee shall arrange to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on that portion of the premises being granted for permanent street purposes, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

9. The Grantee or its contractor(s) shall telephone Grantor's Communication Network Control Center at **(800) 533-2891** (a 24 hour number) to determine if fiber optic cable is buried anywhere on the premises; and if so, the Grantee or its contractor(s) will contact the Telecommunications Company(ies) involved, and make arrangements with the Telecommunications Company(ies) for protection of the fiber optic cable prior to beginning any work on the premises.

10. Grantee, in its acceptance hereof, hereby agrees to indemnify and save harmless said Grantor, from and against all lawful claims, demands, judgments, losses, costs and expenses, for injury to or death of the person or loss or damage to the property of any person or persons whomever, including the parties hereto, in connection with the entry upon, occupation or use of the said premises herein described, including but not limited to that of the location, construction, operation, restoration, repair, renewal, or maintenance of said telecommunications upon the herein described premises or otherwise, except to the extent that any loss or property damage is caused by the negligence or intentional misconduct of the Grantor, its contractors or designees.

11. If said described premises, or any part thereof, shall at any time cease to be used by said Grantee, or by the public, for the purpose, as aforesaid, or should they be converted to any other use whatsoever, or should the Grantee fail to perform any of the conditions herein expressed, then and in such event, the Grantee shall relinquish and quitclaim to the Grantor or its successors and assigns the premises hereinabove described in accordance with Minnesota statutes so made and provided, and the Grantor shall have all rights accorded to it for the recapture of its premises as provided by law.

12. The Grantor does not warrant its title to said premises nor undertake to defend the Grantee in the peaceable possession, use or enjoyment thereof; and the grant herein made is subject to all outstanding rights or interest of others, including the tenants and licensees of the Grantor.

13. This easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns and successors of Grantor and Grantee.

**TO HAVE AND TO HOLD THE SAME**, together with all the hereditaments and appurtenances thereunto belonging to Grantee for public use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

**IN WITNESS WHEREOF**, the said **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY** has caused this instrument to be signed by its authorized officer, and the corporate seal affixed on the 25th day of January, 2002.

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

By: _____
D. A. Detjen
Manager Real Estate

**ATTEST:**

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY CORPORATE SEAL DELAWARE

_____
Patricia Zbichorski
Assistant Secretary

STATE OF TEXAS )
) ss.
COUNTY OF TARRANT )

The foregoing instrument was acknowledged before me this 25th day of January, 2002, by D. A. Detjen, Manager Real Estate and Patricia Zbichorski, Assistant Secretary of The Burlington Northern and Santa Fe Railway Company, a Delaware corporation, on behalf of the corporation.

RHONDA BURTON
Notary Public
State of Texas
My Commission Expires
September 21,2004

Rhonda Burton
Notary Public

My commission expires: 9/21/2004

This instrument was drafted by:
Staubach Global Services, Inc.
Title & Escrow Services
5650 North Riverside Drive, Suite 101
Fort Worth, Texas 76137

State deed tax due hereon $_____

Tax statements for the real property
described in this instrument should be
sent to:

Pursuant to Minnesota Statutes Chapter 103I, the grantor certifies that the grantor does not know of any wells on the described real property.

**FORM APPROVED BY LAW**

| | |
|---|---|
| APPROVED LEGAL | |
| APPROVED FORM | BBW |
| APPROVED | BBW |

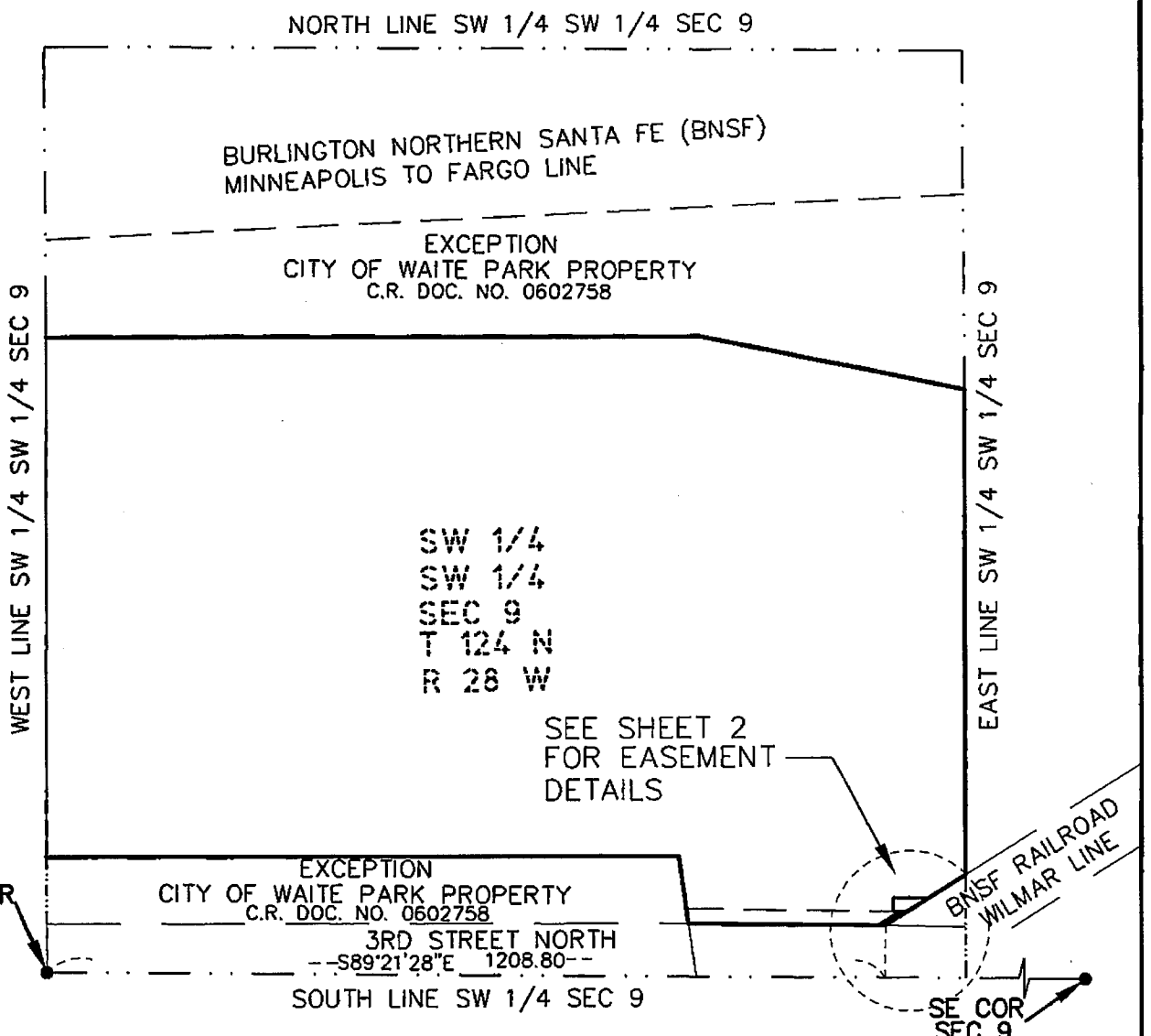
QWEST ROW # 01036MN01
PROJECT - MNCW0723

**ULTEIG ENGINEERS, INC.**
5201 EAST RIVER ROAD www.ulteig.com
SUITE 308
MINNEAPOLIS, MINNESOTA 55421
PHONE (763) 571-2500 FAX (763) 571-1168

# EXHIBIT A SHEET 1 OF 3 SHEETS

Certificate of Survey for: QWEST CORPORATION
Job Number: MNCW0723
Location: City of Waite Park, Stearns County, Minnesota
See sheet 2 of 2 for legal descriptions

SCALE: 1" = 240'




**LEGEND**

- ● –Denotes Momument Found
- O –Denotes Monument Set w/Cap #14889

JOB NO.: 01-7584
SEC. 9, T. 124 N., R. 28 W.
CO.: STEARNS

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

W J Gregory

WALTER J. GREGORY LIC. NO. 14889

DATE 10/24/01

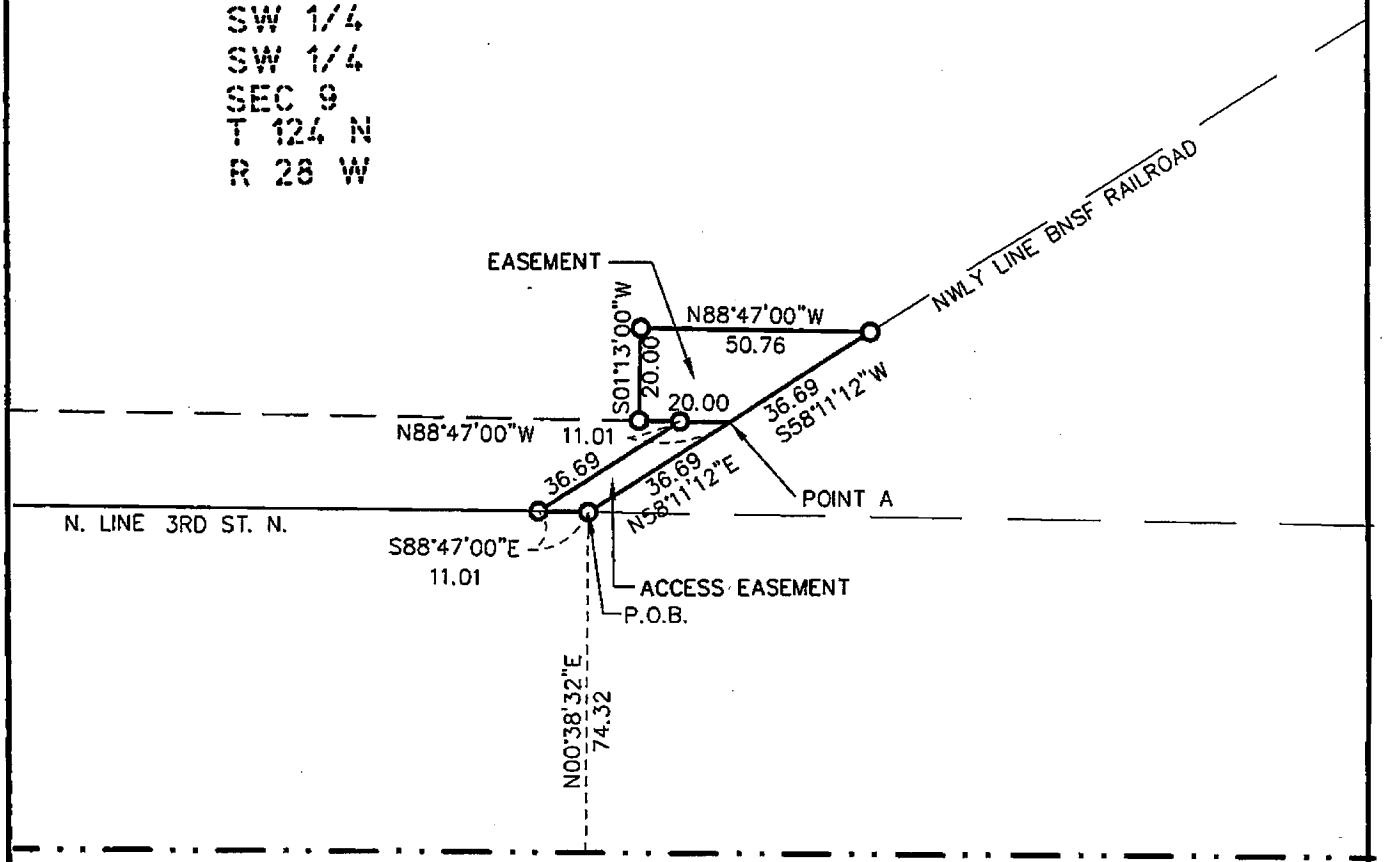
SCR 6 of 8

**ULTEIG ENGINEERS, INC.**
5201 EAST RIVER ROAD www.ulteig.com
SUITE 308
MINNEAPOLIS, MINNESOTA 55421
PHONE (763) 571-2500 FAX (763) 571-1168

# EXHIBIT A SHEET 2 OF 3 SHEETS

Certificate of Survey for: QWEST CORPORATION
Job Number: MNCW0723
Location: City of Waite Park, Stearns County, Minnesota
See sheet 3 of 3 for legal descriptions

SCALE: 1" = 40'




**LEGEND**
- ● —Denotes Momument Found
- O —Denotes Monument Set w/Cap #14889

JOB NO.: 01-7584
SEC. 9, T. 124 N., R. 28 W.
CO.: STEARNS

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

WALTER J. GREGORY LIC. NO. 14889
DATE 2/5/02

998011

**ULTEIG ENGINEERS, INC.**
5201 EAST RIVER ROAD www.ulteig.com
SUITE 308
MINNEAPOLIS, MINNESOTA 55421
PHONE (763) 571-2500 FAX (763) 571-1168

# EXHIBIT A SHEET 3 OF 3 SHEETS

Certificate of Survey for: QWEST CORPORATION
Job Number: MNCW0723
Location: City of Waite Park, Stearns County, Minnesota

## Description of Property:

That part of the Southwest quarter of the Southwest quarter of Section 9, Township 124 North, Range 28 West which lies Southerly of the Burlington Northern Santa Fe Railroad (Minneapolis to Fargo Line) and which lies Northwesterly of the Burlington Northern Santa Fe Railroad (Willmar Branch Line) and which lies Northerly of 3rd Street North.

Except that portion conveyed to the City of Waite Park.

## Description of Easements:

An easement for telecommunication purposes under and across the herein before described property, described as follows:

Commencing at the southwest corner of Section 9, Thence South 89 degrees 21 minutes 28 seconds East 1208.80 feet along the south line of the Southwest Quarter of Section 9: Thence North 00 degrees 38 minutes 32 seconds East 74.32 feet to the point of beginning for the easement to be described; Thence North 58 degrees 11 minutes 12 seconds East 36.69 feet along the northwesterly line of the Burlington Northern Santa Fe Railroad (Willmar Branch Line) to Point A; Thence North 88 degrees 47 minutes 00 seconds West 11.01 feet; Thence South 58 degrees 11 minutes 12 seconds West 36.69 feet to the north line of 3rd Street North; Thence South 88 degrees 47 minutes 00 seconds West 11.01 along said north line to the point of beginning.

Contains 220 square feet, more or less.

Also, an easement for telecommunication purposes over, under and across the herein before described property, described as follows:

Beginning at herein before described Point A; Thence North 88 degrees 47 minutes 00 seconds West 20.00 feet; Thence North 01 degrees 13 seconds 00 minutes East 20.00 feet; Thence North 88 degrees 47 minutes 00 seconds West 50.76 feet to the northwesterly line of the Burlington Northern Santa Fe Railroad (Willmar Branch Line); Thence South 58 degrees 11 minutes 12 seconds West 36.69 feet along said northwesterly line to the point of beginning.

Contains 708 square feet, more or less.

JOB NO.: 01-7584
SEC. 9, T. 124 N., R. 28 W.
CO.: STEARNS

SCR 8 of 8

1/30.00 HS

Warranty Deed
Corporation to Individual

1014325

02 JUN 21 PM 3:13

No Delinquent taxes and transfer entered: Certificate of Real Estate Value
( ) filed (✓) not required
Certificate of Real Estate Value No. JUN 21 2002

Randy R Schreifel County Auditor
by Danny Rowzolf Deputy
98-61600-030

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D Schlichting DEPUTY

27 TRES09 020020134 DEED TX X PAID $1.65 6/21/2002 15:10:2

STATE DEED TAX DUE HEREON: $ 1.65
Date: 1-2, 2000

FOR VALUABLE CONSIDERATION, Park Press Quality Printing, Inc., Grantor(s), hereby convey(s) and warrant(s) to James Blommer and Dorothy Blommer, husband and wife, Grantee(s), real property in Stearns County, Minnesota, described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Containing 3.00 acres.

Subject to a utility easement over, under and across the East 50 feet of the South 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 228 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of



American Heritage Nat'l Bank
St Cloud

SCR 1 of 2

1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

together with all hereditaments and appurtances belonging thereto, subject to the following conditions:

Mortgages, easements, and restrictions of record.

Park Press Quality Printing, Inc.

James Blommer,
President

Affix Deed Stamp Here

STATE OF MINNESOTA )
)ss
County of Stearns )

The foregoing instrument was acknowledged before me this 2 day of January, 2000, on behalf of Park Press Quality Printing, Inc. by James Blommer, President of Park Press Quality Printing, Inc., Grantor(s) who affirmed before me that he is the President of said corporation and has full authority to sign this deed on behalf of the corporation.

Notary Public

Notarial Seal

WILLIAM F. WIELINSKI
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Send Tax Statements To:

THIS INSTRUMENT DRAFTED BY:
Michael K. O'Tool
2587 Gould Grey Road
Brainerd, MN 56401
(218)828-1970

James & Dorothy Blommer
1776 Casselberry Road
St. Cloud, MN 56303

This is a conveyance to trust and consideration paid herefore is less then $500.00

WELL CERTIFICATE

Sellers hereby certify that there are no wells situated upon the property described herein.

Park Press Quality Printing, Inc.

By James Blommer,
It's President

2/30.00 NS

Warranty Deed
Individual to Trustee

1014326

02 JUN 21 PM 3:13

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY D Schlichting DEPUTY

No delinquent taxes and transfer entered: Certificate of Real Estate Value ( ) filed (✓) not required
Certificate of Real Estate Value No. JUN 21 2002

Randy R Schreifel
County Auditor

by Tammy Mortzolf
Deputy

98-61600-030

STATE DEED TAX DUE HEREON: $ 1.65
Date: 1-2, 2000

FOR VALUABLE CONSIDERATION, James Blommer and Dorothy Blommer, husband and wife, Grantor(s), hereby convey(s) and warrant(s) to James Blommer and Dorothy Blommer, or successors, as Trustees of the James Blommer Trust under agreement dated September 14, 1998, Grantee(s), real property in Stearns County, Minnesota, described as follows:

A one-half interest in the real property described as follows, to wit:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Containing 3.00 acres.

Subject to a utility easement over, under and across the East 50 feet of the South 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 228 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

27 TRES09 | 020020134 DEED TX Y PAID $1.65 | 6/21/2002 15:10:51



SCR 1 of 2

said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

together with all hereditaments and appurtenances belonging thereto, subject to the following conditions:

Mortgages, easements, and restrictions of record.

This is a conveyance to trust and the consideration paid herefore ~~is~~ less than $500.00.

Affix Deed Stamp Here

James Blommer, Grantor

Dorothy Blommer, wife

STATE OF MINNESOTA )
) ss
County of Stearns )

The foregoing instrument was acknowledged before me this 1st day of Jan, 2002, by James Blommer and Dorothy Blommer, husband and wife, Grantor(s).

SHARON OSOWSKI
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Seal

Notary Public

Send Tax Statements To:

James & Dorothy Blommer
1776 Casselberry Road
St. Cloud, MN 56303

THIS INSTRUMENT DRAFTED BY:
Michael K. O'Tool
2587 Gould Grey Road
Brainerd, MN 56401
(218)828-1970

WELL CERTIFICATE

Sellers hereby certify that there are no wells situated upon the property described herein.

James Blommer

Dorothy Blommer

3/ 3000 NS

Warranty Deed
Individual to Trustee

1014327

02 JUN 21 PM 3:13

COUNTY RECORDER
STEARNS CO., MN.
PATRICIA M. OVERMAN
BY D Schlichting DEPUTY

No delinquent taxes and transfer entered: Certificate of Real Estate Value ( ) filed (✓) not required
Certificate of Real Estate Value No. JUN 21 2002

Randy R Schreifels
County Auditor

by Tammy Mordzolf
Deputy

98-61600-030

STATE DEED TAX DUE HEREON: $ 1.65
Date: 1-2, 2000

FOR VALUABLE CONSIDERATION, James Blommer and Dorothy Blommer, husband and wife, Grantor(s), hereby convey(s) and warrant(s) to James Blommer and Dorothy Blommer, or successors, as Trustees of the Dorothy Blommer Trust under agreement dated September 14, 1998, Grantee(s), real property in Stearns County, Minnesota, described as follows:

A one-half interest in the real property described as follows, to wit:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

Commencing at the south quarter corner of said Section 8; thence North 90 degrees 00 minutes 00 seconds East, assumed bearing, along the south of said Section 8, a distance of 1288.72 feet; thence North 00 degrees 00 minutes 00 seconds East 163.00 feet to the point of beginning of the tract to be described; thence North 90 degrees 00 minutes 00 seconds West, parallel to said south line, 631.30 feet; thence North 00 degrees 00 minutes 00 seconds East 207.00 feet; thence North 90 degrees 00 minutes 00 seconds East 631.30 feet; thence South 00 degrees 00 minutes 00 seconds East 207.00 feet to the point of beginning. Containing 3.00 acres.

Subject to a utility easement over, under and across the East 50 feet of the South 25 feet of the above described tract.

Together with a 40 foot roadway easement for the purpose of ingress and egress over and across that part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 228 West, in the City of Waite Park, Stearns County, Minnesota, described as follows:

27 TRES09 | 020020134 DEED TX X PAID $1.65 | 6/21/2002 15:11:17



SCR 1 of 2

said 40 foot roadway easement lies 40 feet east of a line that begins on the south line of said Section 8 at a distance of 1288.72 feet east of the south quarter corner of said Section 8; thence north at right angles to said south line a distance of 370.00 feet and there terminating.

together with all hereditaments and appurtenances belonging thereto, subject to the following conditions:

Mortgages, easements, and restrictions of record.

This is a conveyance to trust and the consideration paid herefore is less than $500.00.

Affix Deed Stamp Here

James Blommer, Grantor

Dorothy Blommer, wife

STATE OF MINNESOTA )
) ss
County of Stearns )

The foregoing instrument was acknowledged before me this 2nd day of July, 2000, by James Blommer and Dorothy Blommer, husband and wife, Grantor(s).

SHARON OSOWSKI
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Notary Public

Send Tax Statements To:

James & Dorothy Blommer
1776 Casselberry Road
St. Cloud, MN 56303

THIS INSTRUMENT DRAFTED BY:
Michael K. O'Tool
2587 Gould Grey Road
Brainerd, MN 56401
(218)828-1970

WELL CERTIFICATE

Sellers hereby certify that there are no wells situated upon the property described herein.

James Blommer

Dorothy Blommer

2000

MDocs 2001 3-M – WARRANTY DEED Minnesota Uniform Conveyancing Blanks (6/1/97)

Individual(s) to Corporation, Partnership or Limited Liability Company

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( X ) filed ( ) not required
Certificate of Real Estate Value No. _____
7/2/02
(Date)
Randy R Schreifels
County Auditor
by Joan M Rothstein
Deputy
82.47182.102

1015310

02 JUL -2 PM 3:44

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY dSchlichting DEPUTY

(reserved for recording data)

DEED TAX DUE: $ 752.40

Date: July 1, 2002

FOR VALUABLE CONSIDERATION, Dan Feneis and Patricia A. Feneis husband and wife
(marital status)

Grantor, hereby conveys and warrants to Cornerstone Construction, Inc. of St. Cloud

Grantee, a corporation under the laws of Minnesota
real property in Stearns County, Minnesota, described as follows:

See Exhibit A attached.

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: _____

Check box if applicable:
- ☐ The Seller certifies that the seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document.
- ☑ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

27 TRES09 020021130 DEED TX % PAID $752.40 7/02/2002 14:55:51

Dan Feneis
Dan Feneis

Patricia A. Feneis
Patricia A. Feneis

STATE OF MINNESOTA
COUNTY OF Stearns } ss.

This instrument was acknowledged before me on July 1, 2002
Date

by Dan Feneis and Patricia A. Feneis
husband and wife

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):

MARY ANN T. NUNES
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Mary Ann T Nunes
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Check here if part or all of the land is Registered (Torrens) ☐

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Cornerstone Construction, Inc. of St. Cloud
6975 Saukview Drive
St. Cloud MN 56303

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

MARY ANN NUNES
TITLE PROFESSIONALS & ABSTRACT CO
24 8TH AVE S
PO BOX 873
ST CLOUD, MN 56302-0873
320-251-2933
FILE NO: 0239250C

RETURN TO:
Title Professionals and
Abstract Company
PO Box 873
St. Cloud, MN 56302
FILE# 0239250C

VTP

1015310

**Exhibit A**

Lot Two (2), Block One (1), Goodin, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.

2400 (21)

1736 50

MORTGAGE REGISTRATION TAX 1736 50
Randy R Schreifel
Brenda Stanger

1016329

02 JUL 11 PM 12:37

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY [signature] DEPUTY

**MORTGAGE, SECURITY AGREEMENT,**
**FIXTURE FINANCING STATEMENT**
**AND ASSIGNMENT OF LEASES AND RENTS**

BY

GOODIN COMPANY
AND
NORTH TIER LANDCO, LLC

27 TRES09 | 020022057 MR STATE % PAID $1,736.50 | 7/11/2002 11:23:05

AS MORTGAGORS,

TO

WELLS FARGO BANK, NATIONAL ASSOCIATION

AS MORTGAGEE,

TO SECURE
$755,000.00 REAL ESTATE NOTE

Dated: July 3, 2002

Tax statements for the real property described in this instrument should be sent to:

Goodin Company
2700 North Second Street
Minneapolis, Minnesota 55411

This instrument was drafted by:

WINTHROP & WEINSTINE, P.A.
3000 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, Minnesota 55402

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE MAXIMUM PRINCIPAL AMOUNT OF THE NOTE SECURED BY THIS MORTGAGE IS $755,000.00.

env

√ Commercial Partners
200 S 6th St #1300
Mpls 55402

**MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS**

THIS MORTGAGE, SECURITY AGREEMENT, FIXTURE FINANCING STATEMENT AND ASSIGNMENT OF LEASES AND RENTS (the "Mortgage"), is made as of the 3rd day of July, 2002, by GOODIN COMPANY, a Minnesota corporation ("Goodin"), and NORTH TIER LANDCO, LLC, a Minnesota limited liability company ("North Tier") (Goodin and North Tier are hereinafter at times collectively referred to as the "Mortgagors"), in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association (the "Mortgagee").

**W I T N E S S E T H:**

WHEREAS, the Mortgagee has agreed to make a real estate loan to the Mortgagors in the amount of $755,000 pursuant to the terms and subject to the conditions set forth in that certain loan agreement of even date herewith by and between the Mortgagee and the Mortgagors (the "Loan Agreement"); and

WHEREAS, the Mortgagors have executed and delivered that certain $755,000 real estate note of even date herewith and payable to the order of the Mortgagee (the "Note") which Note is due and payable in full on July 3, 2017, or such earlier date as is set forth in the Note; and

WHEREAS, North Tier is the fee owner of the tract of land legally described on Exhibit A attached hereto and hereby made a part hereof (the "Land"), and

WHEREAS, the Land has been leased by North Tier to Goodin as evidenced by that certain Memorandum of Lease dated June 4, 1998, and filed of record on July 7, 1998, as Document No. 878750 (the "Lease");

WHEREAS, the Mortgagee has required as an express condition precedent to making a loan to the Mortgagors pursuant to the Note that the Mortgagors secure the Note by this Mortgage.

NOW THEREFORE, THIS MORTGAGE FURTHER WITNESSETH, that in consideration of the Mortgagee making a loan to the Mortgagors pursuant to the Note in the principal amount of Seven Hundred Fifty-Five Thousand and 00/100 Dollars ($755,000.00) (the "Mortgage Amount") and other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure, and as security for, the payment of principal and interest and other premiums, penalties and charges on the Note and the performance and observance by the Mortgagors of all of the covenants, agreements, representations, warranties and conditions contained herein, the Mortgagors do hereby grant, bargain, sell, convey, assign, transfer, pledge, set over and confirm unto the Mortgagee, its successors and assigns, forever, and do hereby grant a mortgage lien and security interest to the Mortgagee, its successors and assigns, forever, in and to the Land;

Together with (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing (all of the foregoing is hereinafter collectively referred to as the "Mortgaged Property").

The filing of this Mortgage shall constitute a fixture filing in the office where it is filed and a carbon, photographic or other reproduction of this document may also be filed as a financing statement:

| | |
|---|---|
| Name and Address of Debtor and Record Owner of Real Estate: | Goodin Company<br>(Federal Tax Identification Number: 41-0281472)<br>(Organization Identification Number: MN 533-AA)<br>North Tier Landco, LLC<br>(Federal Tax Identification Number: 41-1893961)<br>(Organization Identification Number: MN 6738-LLC)<br>2700 North Second Street<br>Minneapolis, Minnesota 55411 |
| Name and Address of Secured Party: | Wells Fargo Bank, National Association<br>MAC#: N9305-114<br>Minneapolis Office<br>Wells Fargo Center<br>Sixth and Marquette<br>Minneapolis, Minnesota 55479 |
| Description of the Types (or items) of property covered by this financing statement: | See above |

| | |
|---|---|
| Description of real estate to which all or a part of the collateral is attached or upon which it is located: | See Exhibit A attached hereto. |

Some of the above described collateral is or is to become fixtures upon or minerals and mineral rights located upon the real estate described on Exhibit A, and this financing statement is to be filed for record in the public real estate records.

AND THE MORTGAGORS, for themselves, their successors and assigns, do covenant with the Mortgagee, its successors and assigns, that they are lawfully seized of the Mortgaged Property and have good right to sell and convey the same; that the Mortgaged Property is free from all encumbrances except as may be further stated in this Mortgage; that the Mortgagee, its successors and assigns, shall quietly enjoy and possess the Mortgaged Property; and that the Mortgagors will WARRANT AND DEFEND the title to the same against all lawful claims not specifically excepted in this Mortgage.

EACH OF THE MORTGAGORS will not change its principal place of business or chief executive office set forth above, or change the state of its registration, or change its name, without in each instance the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned. The Mortgagee's consent will, however, be conditioned upon, among other things, the execution and delivery or additional financing statements, security agreements and other instruments which may be necessary to effectively evidence or perfect the Mortgagee's security interest in the Mortgaged Property as a result of such changes.

PROVIDED, NEVERTHELESS, that if the Mortgagors shall pay the principal balance of the Note in full, plus interest at the rate set forth in the Note, as the same changes from time to time and is adjusted in the manner set forth in the Note, on the unpaid principal balance, as computed in accordance with the terms and conditions of the Note, and any other sums due and owing under the Note and the Loan Agreement and shall also pay or cause to be paid all other sums, with interest thereon, as may be advanced by the Mortgagee in accordance with this Mortgage either to protect the lien of this Mortgage, or by way of additional loan or for any other purpose, and shall also keep and perform all and singular the covenants herein, required on the part of the Mortgagors to be kept and performed (the Note, including any and all renewals, amendments, extensions and modifications thereof, and all such sums, together with interest thereon, and such covenants herein collectively referred to as the "Indebtedness Secured Hereby"), then this Mortgage shall be null and void, in which event the Mortgagee will execute and deliver to the Mortgagors in form suitable for recording a full satisfaction of this Mortgage; otherwise this Mortgage shall remain in full force and effect.

ARTICLE I.

GENERAL COVENANTS, AGREEMENTS, WARRANTIES

SECTION 1.1. PAYMENT OF INDEBTEDNESS; OBSERVANCE OF COVENANTS. The Mortgagors shall duly and punctually pay each and every payment of principal, interest and all prepayment premiums and late charges, if any, required by the Note or the Loan Agreement and all other Indebtedness Secured Hereby, as and when the same shall become due, and the Mortgagors shall duly and punctually perform and observe all of the covenants, agreements and provisions contained herein.

SECTION 1.2. MAINTENANCE; REPAIRS. Subject to the provisions of Section 2.3 hereof, the Mortgagors shall keep and maintain the Mortgaged Property in good condition, repair and operating condition free from any waste or misuse, and will comply with all requirements of law, municipal ordinances and regulations, restrictions and covenants affecting the Mortgaged Property and its use, and will promptly repair or restore any building, improvements or structures now or hereafter located on the Land which may become damaged or destroyed to their condition prior to any such damage or destruction. The Mortgagors shall not acquiesce in any rezoning classification, modification or restriction affecting the Land, without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld nor delayed. The Mortgagors shall not vacate or abandon the Mortgaged Property.

SECTION 1.3. PAYMENT OF UTILITY CHARGES, TAXES AND ASSESSMENTS. The Mortgagors shall, before any penalty attaches thereto, pay or cause to be paid all charges made for electricity, gas, heat, water, sewer and other utilities furnished or used in connection with the Mortgaged property, and all taxes, assessments and levies of every nature heretofore or hereafter assessed against the Mortgaged Property and, upon demand, will furnish the Mortgagee receipted bills evidencing such payment.

Nothing in this Section 1.3 shall require the payment or discharge of any obligations imposed upon the Mortgagors by this Section so long as the Mortgagors shall diligently and in good faith and at their own expense contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Mortgaged Property or any part thereof to satisfy the same; provided, however, that during such contest the Mortgagors shall, at the reasonable request of the Mortgagee, provide security satisfactory to the Mortgagee, assuring the discharge of the Mortgagors' obligation under this Section and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided further, however, that if at any time payment of any obligation imposed upon the Mortgagors by this Section shall become necessary to prevent the delivery of a tax deed conveying the Land or any portion thereof because of nonpayment, then the Mortgagors shall pay the same in sufficient time to prevent the delivery of such tax deed.

SECTION 1.4. LIENS. Except for liens and encumbrances, if any, listed on Exhibit B attached hereto or consented to in writing by or granted to the Mortgagee ("Permitted Encumbrances"), the Mortgagors will keep the Mortgaged Property free from all liens (other than liens for taxes, assessments and mechanics' liens not yet due and payable) and

encumbrances of every nature whatsoever heretofore or hereafter arising and, upon written demand of the Mortgagee, the Mortgagors will pay and procure the release of any such lien or encumbrance.

SECTION 1.5. COMPLIANCE WITH LAW. The Mortgagors will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property unless the same is being diligently contested by the Mortgagors in good faith and by proper proceedings.

SECTION 1.6. RIGHT OF THE MORTGAGEE TO ENTER. The Mortgagors will permit the Mortgagee and its agents to enter, and to authorize others to enter, upon any or all of the Land, at any time and from time to time, during normal business hours, to inspect the Mortgaged Property to perform or observe any covenants, conditions or terms hereunder which the Mortgagors shall fail to perform, meet or comply with, or for any other purpose in connection with the protection or preservation of the Mortgagee's security, without thereby becoming liable to the Mortgagors or any person in possession under the Mortgage.

SECTION 1.7. RIGHT OF THE MORTGAGEE TO PERFORM. If the Mortgagors fail to pay all and singular any taxes, assessments, levies or other similar charges or encumbrances heretofore or hereafter assessed against the Mortgaged Property or fail to obtain the release of any lien or encumbrance (other than a Permitted Encumbrance) of any nature heretofore or hereafter arising upon the Mortgaged Property or fail to perform any other covenants and agreements contained in this Mortgage or if any action or proceeding is commenced which adversely affects or questions the title to or possession of the Mortgaged Property or the interest of the Mortgagors or the Mortgagee therein, then the Mortgagee, at the Mortgagee's option, without notice to the Mortgagors, may perform such covenants and agreements, investigate and defend against such action or proceeding, and take such other action as the Mortgagee deems necessary to protect the Mortgagee's interest. Any amounts disbursed by the Mortgagee pursuant to this Section 1.7, including without limitation court costs and expenses and attorneys' fees, with interest thereon, shall become additional indebtedness of the Mortgagors and shall be secured by this Mortgage. Such amount shall be payable upon written notice from the Mortgagee to the Mortgagors requesting payment thereof, and shall bear interest from the date of disbursement at a rate equal to the greater of (i) the rate of interest then in effect under the Note or, (ii) eighteen percent (18%) per annum or, if such rate is illegal or usurious, at the maximum rate then permitted by law. Nothing contained in this Section 1.7 shall require the Mortgagee to incur any expense or to do any act or thing hereunder.

SECTION 1.8. ASSUMPTION. The Mortgagors shall not sell, assign, lease, convey, mortgage or otherwise encumber or dispose of either the legal or equitable title or both to all or any portion of the Mortgaged Property or any other interest therein without the prior written consent of the Mortgagee; provided that North Tier shall be entitled to transfer its interest in the Mortgaged Property to the Borrower without the consent of the Mortgagee. A sale, transfer or assignment of any ownership interest in either of the Mortgagors shall constitute a sale for the purposes of this Section 1.8.

The Mortgagors acknowledge and agree that this assignment of leases and rents, and the Mortgagee's rights and remedies hereunder, may be enforced by the Mortgagee throughout the entire redemption period provided by applicable law following any foreclosure sale of all or any portion of the Mortgaged Property.

At any time after the occurrence of an Event of Default under the Loan Agreement, the Mortgagee, without in any way waiving such default, may:

I. at the Mortgagee's option without notice to the Mortgagors and without regard to the adequacy of the security for the Note, either in person or by agent, with or without any action or proceeding, or by a receiver appointed by a court of competent jurisdiction pursuant to Minnesota Statutes, Section 559.17, Subd. 2, peaceably take possession of the Mortgaged Property and have, hold, manage, lease, sublease and operate the same as a mortgagee in possession; or

II. the Mortgagee, without taking possession of the Mortgaged Property, may sue for or otherwise collect and receive all rents, income and profits from the Mortgaged Property to which the Mortgagors would otherwise be entitled, including those past due and unpaid with full power to make from time to time all adjustments thereto, as may seem proper to the Mortgagee.

The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases, sublease or rental agreements relating to the Mortgaged Property, and the Mortgagors shall and do hereby agree to indemnify and hold the Mortgagee harmless from and against any and all liability, loss or damage which it may or might incur under any such lease, sublease or agreement or under or by reason of the assignment of the rents thereof and from and against any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of such leases, provided that the Mortgagors shall not indemnify and hold harmless the Mortgagee from any liability loss or damage resulting from acts or omissions of the Mortgagee which occur on or after the date the Mortgagee takes possession of the Mortgaged Property. Should the Mortgagee incur any liability, loss or damage by reason of this assignment of leases and rents, or in the defense of any claim or demand, the Mortgagors agree to reimburse the Mortgagee for the amount thereof, including costs, expenses and attorneys' fees, immediately upon demand.

The Mortgagee, or such agent or receiver, in the exercise of the rights and powers conferred upon it by this assignment of leases and rents shall have the full power to use and apply the avails, rents, issues, income and profits of the Mortgaged Property to which the Mortgagors would otherwise be entitled to the payment of or on account of the following in the order listed below:

I. Reasonable receiver's fees;

II. Application of tenant security deposits as required by Minnesota Statutes, Section 504B.178;

III. Payment, when due, of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for the payment of the taxes or special assessments;

IV. Payment, when due, of premiums for insurance of the type required by this Mortgage, or the periodic escrow for the payment of the premiums; and

V. All expenses for normal maintenance of the Mortgaged Property;

provided, however, that nothing herein shall prohibit the right to reinstate pursuant to Minnesota Statutes, Section 580.30, or the right to redeem granted pursuant to Minnesota Statutes, Sections 580.23 and 581.10.

Any excess cash remaining after paying the expenses listed in clauses (I) through (V) above shall be applied to the payment of the Note and shall be deemed to be credited to the amount required to be paid to effect a reinstatement or redemption or, if the period of redemption ends without redemption, such remaining amounts shall be paid to the purchaser at the foreclosure sale, its successors or assigns.

The Mortgagors do further specifically authorize and instruct each and every present and future lessee, sublessee, tenant or subtenant of the whole or any part of the Mortgaged Property to pay all unpaid rental agreed upon in any lease or sublease to the Mortgagee upon receipt of demand from the Mortgagee so to pay the same.

Any tenants, subtenants or other occupants of all or any part of the Mortgaged Property are hereby authorized to recognize the claims of the Mortgagee hereunder without investigating the reason for any action taken by the Mortgagee, or the validity or the amount of indebtedness owing to the Mortgagee, or the occurrence or existence of any Event of Default, or the application to be made by the Mortgagee of any amounts to be paid to the Mortgagee. The sole signature of any officer or attorney of the Mortgagee shall be sufficient for the exercise of any rights under this assignment of leases and rents and the sole receipt of the Mortgagee for any sums received by such tenants, subtenants or other occupants shall be a full discharge and release therefor. Checks for all or any part of the rentals collected under this Assignment of Leases and Rents shall be drawn to the exclusive order of the Mortgagee.

SECTION 1.10. FURTHER ASSURANCES. At any time and from time to time, upon request by the Mortgagee, the Mortgagors will make, execute and deliver or cause to be made, executed and delivered, to the Mortgagee, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, the obligations of the Mortgagors hereunder and under the Note, the Loan Agreement and the mortgage and security interest granted by this Mortgage. Upon any failure by the Mortgagors so to do, the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and

in the name of the Mortgagors and the Mortgagors hereby irrevocably appoint the Mortgagee their agent and attorney in fact of the Mortgagors so to do.

SECTION 1.11. EXPENSES. The Mortgagors will pay or reimburse the Mortgagee for all attorneys' fees, costs and expenses incurred by the Mortgagee in any legal proceeding or dispute of any kind in which the Mortgagee is made a party, or appears as party plaintiff or defendant, affecting the Indebtedness Secured Hereby, this Mortgage, the interest created herein or the Mortgaged Property, including but not limited to the exercise of the power of sale set forth in this Mortgage, any condemnation action involving the Mortgaged Property or any action to protect the security hereof and any such amounts paid by the Mortgagee shall be added to the indebtedness secured by this Mortgage.

SECTION 1.12. BOOKS AND RECORDS; FINANCIAL STATEMENTS. The Mortgagors will keep and maintain full, true and accurate books of account adequate to reflect correctly the results of the operation of the Mortgaged Property, all of which books and records relating thereto shall be open to inspection by the Mortgagee or its representative during normal business hours.

SECTION 1.13. HAZARDOUS SUBSTANCES. The Mortgagors warrant, covenant and represent that, except as set forth in the environmental reports previously delivered to the Mortgagee (the "Reports"), there does not exist in or under the Mortgaged Property any pollutant, toxic or hazardous waste or substance, or any other material the release or disposal of which is regulated by any law, regulation, ordinance or code related to pollution or environmental contamination, and, that no part of the Mortgaged Property was ever used for any industrial or manufacturing purpose or as a dump, sanitary landfill, or gasoline service station, and that there exists on the Mortgaged Property no storage tanks, electrical transformers or other equipment containing PCBs or material amounts of asbestos. Except as set forth in the Reports, the Mortgagors represent that they have received no summons, citations, directives, letters or other communications, written or oral, from any federal, state or local agency or department concerning the storing, releasing, pumping, pouring, emitting, emptying or dumping of any pollutant, toxic or hazardous waste or substance on the Mortgaged Property.

The Mortgagors covenant and agree that they shall not, nor shall they permit others to, use the Mortgaged Property for the business of generating, transporting, storing, treating or disposing of any pollutant, toxic or hazardous waste or substance, nor shall they either take or fail to take any action which may result in a release of any hazardous substance from or onto the Mortgaged Property. In addition to all rights of access granted the Mortgagee pursuant to Section 1.6 hereof, during the term of the loan contemplated hereby, the Mortgagee, or any authorized agent, contractor or representative of the Mortgagee, is hereby irrevocably authorized to enter upon the Mortgaged Property at any time and from time to time for reasonable cause or upon the occurrence of an Event of Default for the purpose of performing inspections, taking soil borings or other borings, or conducting any other tests or procedures on, in or about the Mortgaged Property as the Mortgagee deems necessary or appropriate to determine whether any hazardous or toxic substances, including without limitation asbestos or PCBs, are present on, under or about the Mortgaged Property.

The Mortgagors agree to jointly and severally indemnify and to hold the Mortgagee harmless from any and all claims, causes of action, damages, penalties, and costs (including, but not limited to, attorneys' fees, consultants' fees and related expenses) which may be asserted against, or incurred by, the Mortgagee resulting from or due to release of any hazardous substance or waste on the Mortgaged Property or arising out of any injury to human health or the environment by reason of the condition of or past activity upon the Mortgaged Property. The Mortgagors' duty to indemnify and hold harmless includes, but is not limited to, proceedings or actions commenced by any person (including, but not limited to, any federal, state, or local governmental agency or entity) before any court or administrative agency. The Mortgagors further agree that pursuant to their duty to indemnify under this section, the Mortgagors shall indemnify the Mortgagee against all expenses incurred by the Mortgagee as they become due and not waiting for the ultimate outcome of the litigation or administrative proceeding. The Mortgagors' obligations to indemnify and hold the Mortgagee harmless hereunder shall survive repayment of the Mortgage Amount and satisfaction or foreclosure of this Mortgage.

SECTION 1.14. TAX ESCROW. Upon request by the Mortgagee, the Mortgagors shall pay to the Mortgagee, on each day monthly installments of principal and/or interest are payable under the Note, until the Note is paid in full, a sum equal to one-twelfth (1/12th) of the annual taxes and assessments payable with respect to the Mortgaged Property, all as estimated initially and from time to time determined by the Mortgagee, to be applied by the Mortgagee to pay said taxes and assessments (such amounts being hereinafter referred to as the "Funds"). The Mortgagee shall apply the funds to pay said taxes and assessments prior to the date that penalty attaches for non-payment. The Funds are hereby pledged as additional security for the Indebtedness Secured Hereby. No interest shall accrue on the Funds.

If the amount of the Funds held by the Mortgagee shall exceed at any time the amount deemed necessary by the Mortgagee to provide for the payment of taxes and assessments, such excess shall, at the option of the Mortgagee, either be promptly repaid to the Mortgagors or be credited to the Mortgagors on the next monthly installment of Funds due. If at any time the Funds are less than the amount deemed necessary by the Mortgagee to pay taxes and assessments as they fall due, the Mortgagors shall promptly pay to the Mortgagee any amount necessary to make up the deficiency upon written notice from the Mortgagee to the Mortgagors requesting payment thereof.

Upon the occurrence of an Event of Default under the Loan Agreement, the Mortgagee may apply in any order as the Mortgagee shall determine in its sole discretion, any Funds held by the Mortgagee at the time of application to pay taxes and assessments which are then or will thereafter become due or as a credit against the Indebtedness Secured Hereby. Upon payment in full of all Indebtedness Secured Hereby, the Mortgagee shall promptly refund to the Mortgagors any Funds held by the Mortgagee.

ARTICLE II.

INSURANCE, CONDEMNATION AND USE OF PROCEEDS

SECTION 2.1. INSURANCE. Until the Indebtedness Secured Hereby has been paid in full, the Mortgagors shall obtain and maintain the following:

(1) The Mortgagors shall keep the buildings, structures, fixtures and other improvements now existing or hereafter erected on the Land insured against loss by fire, vandalism, and malicious mischief, perils of extended coverage, and such other hazards, casualties and contingencies as may be specified by the Mortgagee, in an amount not less than the greater of (a) the full replacement cost thereof and (b) the full insurable value thereof, which in no event shall be less than the amount of Indebtedness Secured Hereby, and naming the Mortgagee as mortgagee and loss payee. The Mortgagors shall also maintain rent loss or business interruption insurance with respect to such exposures and perils in an amount sufficient to enable the Mortgagors to make the required monthly payments under the Note, to pay taxes and insurance and to continue operations during an assumed reconstruction period of one (1) year, naming the Mortgagee as mortgagee and loss payee. The Mortgagors shall also maintain comprehensive general public liability insurance providing for limits of coverage of not less than $1,000,000 combined single limit coverage, and naming the Mortgagee as an additional insured. The Mortgagors shall also maintain such insurance as is required by the Loan Agreement.

(2) The Mortgagors shall also maintain flood insurance in the event the Mortgagee notifies the Mortgagors that the Federal Emergency Management Agency ("FEMA") has determined that the Mortgaged Property is located in a flood hazard area. Such insurance must meet FEMA coverage requirements, must name the Mortgagee as loss payee, and must be in an amount equal to the lesser of the Mortgage Amount or the maximum insurance available under the National Flood Insurance Program. The Mortgagors understand and agree that even though the Mortgaged Property may not be currently located within a FEMA designated flood hazard area or that the community in which the Mortgaged Property is located does not currently participate in the federal flood insurance program, this may change in the future. In the event of the change of such designation, the Mortgagors agree to obtain the flood insurance required above within forty-five (45) days after receipt of notice thereof from the Mortgagee. The Mortgagors shall reimburse the Mortgagee for all costs and expenses incurred by the Mortgagee in ascertaining from time to time whether the Mortgaged Property is located in a flood hazard area.

(3) All insurance shall be carried in companies licensed to do business in the State of Minnesota and approved by the Mortgagee and the policies and renewals thereof shall (i) contain a waiver of defense based on coinsurance, (ii) be constantly assigned and pledged to and held by the Mortgagee as additional

security for the Indebtedness Secured Hereby, (iii) have attached thereto loss-payable clauses in favor of and in form acceptable to the Mortgagee, and (iv) provide that the Mortgagee shall receive at least thirty (30) days' prior written notice of cancellation or any substantial modification of the policy. The Mortgagors shall provide the Mortgagee with written evidence acceptable to the Mortgagee of all such insurance on the date hereof and prior to each renewal date of such policies of insurance. In default thereof, the Mortgagee may effect any insurance required to be maintained by the Mortgagors pursuant to this Section 2.1 and the amount paid therefor shall become immediately due and payable with interest at a rate equal to the greater of (i) eighteen percent (18%) per annum, or (ii) the rate of interest then in effect under the Note or, if such rate is illegal or usurious, at the maximum rate permitted by law, and shall be secured by this Mortgage. The Mortgagors acknowledge that any insurance obtained by the Mortgagee hereunder may be more expensive than the insurance which could be obtained by the Mortgagors and that such coverage may not be as inclusive as the coverage obtained by the Mortgagors due to the fact that it may not include contents coverage or liability coverage. In the event of loss or damage to the Mortgaged Property, the Mortgagors will give immediate written notice thereof to the Mortgagee, who may make proof of loss or damage if not made promptly by the Mortgagors. In the event the Mortgagors fail to settle and compromise such claim within four (4) months after the date of loss or damage, or in the event an Event of Default has occurred and is then continuing, the Mortgagors hereby authorize the Mortgagee to settle and compromise all claims on such policies and hereby authorize and direct each insurance company concerned to make payment for any such loss to the Mortgagors and the Mortgagee jointly. In the event of foreclosure of this Mortgage, all right, title and interest of the Mortgagors in and to any property insurance policies then in force shall pass to the purchaser at the foreclosure sale.

SECTION 2.2. CONDEMNATION. The Mortgagors shall give the Mortgagee immediate written notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Property or any easement therein or appurtenance thereof. If all or any part of the Mortgaged Property is damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking, acquisition or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid indebtedness secured by this instrument, is hereby assigned to the Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of the Mortgagors and the same shall be paid forthwith to the Mortgagee, to be applied to the Indebtedness Secured Hereby, and any excess shall be paid to the Mortgagors.

SECTION 2.3. THE MORTGAGORS TO REPAIR, REPLACE, REBUILD OR RESTORE. If any Indebtedness Secured Hereby is outstanding when all or any part of the Mortgaged Property is destroyed or damaged, unless the Mortgagee elects, at its option, which option is hereby irrevocably granted by the Mortgagors to the Mortgagee, to apply such proceeds as a prepayment of the Note:

(1) the Mortgagors shall either prepay the Note in full or proceed promptly, subject to the provisions of subsection (2) of this Section 2.3, to replace, repair, rebuild and restore the Mortgaged Property to substantially the same condition as existed before the taking or event causing the damage or destruction;

(2) all proceeds of any insurance claim shall be paid directly to the Mortgagee. The Mortgagee shall apply the proceeds, less such sum, if any, required for payment of all expenses incurred in collecting the same ("Net Proceeds"), to payment of the costs of repair, replacement, rebuilding or restoration of the Mortgaged Property upon compliance with such construction and disbursement terms as the Mortgagee may deem reasonably necessary, including deposit by the Mortgagors with the Mortgagee of such funds of the Mortgagors as may be required to insure payment of all costs of rebuilding, restoration, repair or replacement. If such deposit is not made when requested by the Mortgagee, or if an Event of Default occurs while the Mortgagee is retaining the Net Proceeds, the Mortgagee may apply the Net Proceeds to the Indebtedness Secured Hereby. The balance of the Net Proceeds remaining after payment of all costs of any repair, rebuilding, replacement or restoration of the Mortgaged Property shall be applied as a prepayment of the Indebtedness Secured Hereby, and any excess shall be paid to the Mortgagors; and

(3) the Mortgagors shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the Mortgagee or any abatement or diminution of the amounts payable under the Note, the Loan Agreement or on any other Indebtedness Secured Hereby.

## ARTICLE III.

## REMEDIES

SECTION 3.1. REMEDIES. Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee may, at its option, exercise any and all of the following rights and remedies (and any other rights and remedies available to it under applicable law or any document related hereto):

(1) the Mortgagee shall be entitled to seek immediate appointment of a receiver for the Mortgaged Property; and

(2) the Mortgagee may foreclose this Mortgage by action or advertisement upon written notice thereof to the Mortgagors, and the Mortgagors hereby authorize the Mortgagee to do so, power being herein expressly granted to sell the Mortgaged Property at public auction without any prior hearing thereof and to convey the same to the purchaser, in fee simple, pursuant to the statutes of Minnesota in such case made and provided and, out of the proceeds arising from such sale, to pay all Indebtedness Secured Hereby with interest, and all legal costs

2000

Mllocs 9-M – WARRANTY DEED Minnesota Uniform Conveyancing Blanks (6/1/97) Miller/Davis Co St. Paul, MN 651-642-1988

Corporation or Partnership or Limited Liability Company
to Corporation, Partnership or Limited Liability Company

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( X ) filed ( ) not required
Certificate of Real Estate Value No. _____
7/16/02 (Date)
Randy R Schreifels
County Auditor
by Brenda Stangor Deputy
82.47182.102

1016907

02 JUL 16 PM 12:53

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY Schlichting DEPUTY

(reserved for recording data)

DEED TAX DUE: $ 1.65

Date: July 1, 2002

FOR VALUABLE CONSIDERATION, Cornerstone Construction, Inc. of St. Cloud

a corporation under the laws of Minnesota
Grantor, hereby conveys and warrants to NRB Properties
W. Nikodym/R. Lindmeier, Partners
Grantee, a partnership under the laws of Minnesota
real property in Stearns County, Minnesota, described as follows:

See Exhibit A attached.

"The total consideration for this transfer is less than $500.00".
together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: _____

Check box if applicable:
- ☐ The Seller certifies that the seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document.
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

19 TRES06 020022621 DEED TX % PAID $1.65 7/16/2002 9:57:38

Cornerstone Construction, Inc. of St. Cloud

By Gary W. Verkinnes
Gary Verkinnes
Its President
By _____
Its _____

STATE OF MINNESOTA
COUNTY OF Stearns } ss.

This instrument was acknowledged before me on 7-1-02 (Date)

by Gary Verkinnes and _____
the President and _____
of Cornerstone Construction, Inc. of St. Cloud

a corporation under the laws of Minnesota
on behalf of the corporation

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):
MARY ANN T. NUNES
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Mary Ann T. Nunes
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Check here if part or all of the land is Registered (Torrens) ☐

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

NRB Properties
W. Nikodym and R. Lindmeier
26 1st Ave. N.
Waite Park MN 56387

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

MARY ANN NUNES
TITLE PROFESSIONALS AND ABSTRACT
24 8TH AVE S
PO BOX 873
ST CLOUD, MN 56302-0873
320-251-2933
FILE NO: 0239250C

WARNING: UNAUTHORIZED COPYING OF THIS FORM PROHIBITED.

TPA

1028763

02 OCT 23 PM 3:32

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY _____ DEPUTY

CITY/STATE: Waite Park, Minnesota
Address: Lot #2 West River Business Park
L/C: 022-0429
Prepared by: Molly Lundin, Counsel
After recording, return to: Joan Lossau #091
McDONALD'S CORPORATION
One McDonald's Plaza
Oak Brook, Illinois 60523

## RESTRICTIVE COVENANT

Under a Contract dated May 1, 2002, **WESTLAND PROPERTIES, LLP, a Minnesota limited liability partnership** ("Grantor") agreed to convey to **McDONALD'S CORPORATION, a Delaware corporation** ("Grantee"), a parcel of real estate described on Exhibit A attached.

One of the terms of that Contract required Grantor to record a Restrictive Covenant affecting the use of Grantor's other property.

THEREFORE, in consideration of the terms and conditions contained in that Contract Grantor promises and declares that the property described on Exhibit B, attached, which is within the West River Development Project in Waite Park, Minnesota, will be restricted from any of the following restaurants operating under the listed trade names, or operating under any successor trade names for a period of 20 years from the date of the recording of this document:

| | | |
|---|---|---|
| Arby's | Applebee's | Baskin Robbins |
| Big Boy | Blimpies | Bresslers |
| Brown's Chicken | Burger Chef | Burger King |
| Carl's Jr. | Carrow's | Culver's |
| Dairy Queen Brazier | Del Taco | Denny's |
| Domino's | El Pollo Loco | Fuddrucker's |
| Haagen-Daz | Hardee's | In and Out Burgers |
| Jack-in-the-Box | Kentucky Fried Chicken (KFC) | Little Caesar's |
| Mr. Submarine | Mrs. Fields | Nathan's |
| Numero Uno | Papa Ginos | Ponderosa |
| Popeye's Chicken | Quizno's | Rally's |
| Rax | Round Table | Roy Rogers |
| Schlotzsky's Deli | Shakeys | Shoney's |
| Sizzler | Subway | Taco Bell |
| Wendy's | White Castle | |

This restriction runs with the land described on Exhibits A and B and shall inure to the benefit of Grantee and be binding upon Grantor and Grantor's successors and assigns.

76786 Return to Tri-County Abstract

SCR 1 of 5

Grantor has executed this Restrictive Covenant, this 22 day of August, 2002.

GRANTOR:
**WESTLAND PROPERTIES, LLP, a Minnesota limited liability partnership**

By _____
Its PARTNER

STATE OF MINNESOTA

COUNTY OF STEARNS

## AFFIDAVIT OF OWNERSHIP

The undersigned, being first duly sworn on oath, deposes and states that the undersigned is an officer or partner of the above named Grantor and as such has access to the records of the Grantor and knows of his(her) personal knowledge that the Grantor has title to all of the property described on Exhibit B attached and that the Grantor owns no other property within West River Development Project other than the property described on Exhibit B attached.

Affiant

DALE E. HANKA
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

Subscribed and sworn to before me this 22 day of August, 2002.

Notary Public

My commission expires 1-31-05

(Attach Exhibits A and B)

---

ACKNOWLEDGMENT

STATE OF MINNESOTA

COUNTY OF STEARNS

The foregoing instrument was acknowledged before me on 8-22-02, by Ronald A. Morton, its Partner and by Rollie H Anderson its Partner, of Westland Properties, LLP, on behalf of the Corporation/Partnership.

Notary Public

My Commission Expires:

1-31-05

DALE E. HANKA
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

City, State: Waite Park, Minnesota
L/C: 022-0429
Exhibit A

Legal description of Grantee's Property

Lot One (1), Block One (1),
West River Business Park Two

1028764

02 OCT 23 PM 3:32

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY J Schmidt DEPUTY

Waite Park, Minnesota
Address: Lot 1, Block 1 West River
Business Park Two
L/C: 022-0429
Prepared by Molly Lundin, Counsel
After Recorded, return to: Joan Lossau #091
McDonald's Corporation
One McDonald's Plaza
Oak Brook, IL 60523

# EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is dated August 23, 2002 between **McDONALD'S CORPORATION, a Delaware corporation** ("Grantor") and **WESTLAND PROPERTIES, LLP, a Minnesota limited liability partnership** ("Grantee"). The following statements are a material part of this agreement:

A. Grantor is, or will be at the time of recording of this document, the owner of Parcel 1 described in Exhibit A, attached.

B. Grantee is the owner of Parcel 2 described in Exhibit B, attached.

C. Grantor wishes to grant, and Grantee wishes to receive certain easements over, under and across a portion of Parcel 1 for use by Grantee, future owners of Parcel 2 or any other party subsequently granted the right to use Parcel 2.

THEREFORE, in consideration of TEN AND NO/100THS DOLLARS ($10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, the following grants, agreements, covenants and restrictions are made:

1. INGRESS AND EGRESS EASEMENT

Grantor grants and conveys to Grantee a future perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress to and from Parcel 2, appurtenant to Parcel 2, over, upon and across Parcel 3 which is a portion of Parcel 1 described in Exhibit C, attached ("Easement Area") which easement will commence at the time that Grantee completes the development of Parcel 2 and shall continue thereafter in perpetuity. In the event that the development of Parcel 2 is discontinued or abandoned by Grantee, this inchoate easement

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right shall not ripen into an actual easement until such time Grantee completes the development on Parcel 2 and retail commercial activity occurs thereon.

In the event that Grantee has completed its development of Parcel 2 and desires to install a curb cut from Parcel 2 to the Easement Area, Grantor hereby approves such installation of a curb cut provided that the following conditions are satisfied:

(i) Grantor shall review and approve the plans for the location of the curb cut on the Easement Area which plans shall be furnished by Grantee at no cost to Grantor;

(ii) Grantee shall perform the construction, repair and maintenance of its installations ("Grantee's Work") in such a manner so as to not unduly disrupt the operation of the McDonald's restaurant on Parcel 1;

(iii) Grantee agrees to restore the Easement Area, at its sole cost, to the same condition which existed prior to the commencement of Grantee's Work; and,

(iv) Grantee agrees to indemnify, defend and hold Grantor harmless against any and all claims, liability and costs (including, but not limited to reasonable attorneys' fees and costs) for any and all injuries to persons and for any and all damage to property occurring as a result of Grantee's failure to safely and properly maintain its installations on the Easement Area.

During the period in which said easement rights are effective, Grantor and Grantee and any other party subsequently granted the right to use the Easement Area by Grantor's heirs, successors or assigns, shall share equally the reasonable cost of maintaining, repairing and renewing the surface of the Easement Area. Grantor shall be responsible for supervising the maintenance and repair of the Easement Area. If Grantor fails to meet its responsibilities, Grantee may maintain and repair the Easement Area.

2. USE OF EASEMENT AREA

Grantee will have the right of ingress and egress across the Easement Area for any purpose granted and such ingress and egress will be exercised in a reasonable manner.

3. RUNNING OF BENEFITS

All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, assigns, licensees, invitees, successors, tenants, employees and personal representatives of the parties.

4. DEFAULT

If there is a failure by either party to perform, fulfill or observe any agreement contained within this Easement Agreement, to be performed, fulfilled or observed by it, continuing for thirty (30) days, or in situations involving potential danger to the health or safety of persons in, on or about or substantial deterioration of Parcel 1 or Parcel 2, in each case after written notice, the other party shall be entitled to any payment due hereunder, together with interest at the lower of (1) the rate of ten percent (10%) per annum, or (2) the maximum rate permissible from time to

time under applicable law, from the date of the expenditure or the date when it shall have become due to the date of payment in full. The provisions of this paragraph shall be in all respects subject and subordinate to the lien of any mortgages or deeds of trust at any time or from time to time on the land of the defaulting party and the rights of the holder or holders of any mortgages or deeds of trust.

5. NOTICE

Grantor's address is McDonald's Corporation, One McDonald's Plaza, Oak Brook, Illinois 60523, Attention: Director, U.S. Legal Department #091 (L/C 022-0429) and Grantee's address is Westland Properties, LLP, 821 West St. Germain, St. Cloud, Minnesota 56301, Attn: Ron Morton. Any party may lodge written notice of a change of address. All notices shall be sent by certified mail, return receipt requested, to the addresses provided for in this paragraph and shall be deemed given when placed in the mail.

TO INDICATE THEIR CONSENT TO THIS AGREEMENT, Grantor and Grantee, or their authorized representatives or officers have signed this document.

| GRANTOR | GRANTEE |
|---|---|
| **McDONALD'S CORPORATION, a Delaware corporation** | **WESTLAND PROPERTIES, LLP, a Minnesota limited liability partnership** |
| By _____ | By _____ |
| Its Laura Hois Senior Counsel | Its Partner |

McDONALD'S CORPORATION, A DELAWARE CORPORATION SEAL DELAWARE

(ATTACH ACKNOWLEDGMENTS AND EXHIBITS A, B & C)

Exhibit A: legal description of Grantor's property (Parcel 1)
Exhibit B: legal description of Grantee's property (Parcel 2)
Exhibit C: legal description of Easement Area

**ACKNOWLEDGMENT - McDonald's Corporation**

STATE OF ILLINOIS )
) SS:
COUNTY OF DUPAGE )

I, **Arlene D. Scarlato**, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that **Laura L. Hois, Senior Counsel** of McDonald's Corporation, a Delaware corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such **Senior Counsel** appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such **Senior Counsel** and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this August 23, 2002

Arlene D. Scarlato
Notary Public

My commission expires 07/29/03.

OFFICIAL SEAL
ARLENE D SCARLATO
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES:07/29/03

**ACKNOWLEDGMENT - ~~CORPORATE~~ LLP**

STATE OF MINNESOTA )
) SS:
COUNTY OF STEARNS )

I, DALE E. HANKA, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Rollie H. Anderson, Partner, ~~President~~ and ~~Secretary~~ of Westland Properties, LLP, a(n) ~~corporation~~, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such ~~President~~ **appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act as such ~~President~~ and ~~Secretary~~ respectively and as the free and voluntary act of said ~~corporation~~ LLP for the uses and purposes therein set forth.

**Partner

Given under my hand and notarial seal, this 22nd day of August, 2002.

Dale E. Hanka
Notary Public

My commission expires 1-31-05.

DALE E. HANKA
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2005

**EXHIBIT A**

**Grantor's Property**

Parcel 1:

Lot 1, Block 1, West River Business Park Two, Stearns County, Minnesota.

**EXHIBIT B**

**Grantee's Property**

Parcel 2:

Lot 2, Block 1, West River Business Park Two, Stearns County, Minnesota.

## EXHIBIT C

### Easement Area

Parcel 3:

A 60.00 foot ingress and egress easement over, under and across that part of said Lot 1, Block 1, West River Business Park Two, according to the plat thereof on file and of record in the Office of the County Recorder, Stearns County, Minnesota. The centerline of said easement is described as follows:

Commencing at the northeast corner of said Lot 1; thence South 00 degrees 22 minutes 57 seconds West, plat bearing, along the east line of said Lot 1, and its southerly extension, a distance of 323.85 feet to a line parallel with and distant 30.00 feet, as measured at a right angle to, the south line of said Lot 1 and the actual point of beginning of the centerline to be described; thence South 89 degrees 45 minutes 19 seconds East, along said parallel line, a distance of 61.29 feet; thence South 46 degrees 56 minutes 03 seconds East a distance of 115.37 feet to the southeasterly line of said Lot 1 and said centerline terminating thereat.

This Parcel 3 Easement Area legal description was prepared by Bonestroo Williamson Kotsmith and is shown on the Topographic and Boundary Survey dated May 17, 2002, last revised August 22, 2002, prepared by Bonestroo Williamson Kotsmith consisting of Sheet 1 of 1, BWK File Number 900-02-153.

1029999

MORTGAGE REGISTRATION TAX 1306.40

Randy R Schriefel

STEARNS COUNTY AUDITOR

DEPUTY AUDITOR

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TRES09

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# MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS

(INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)

## MINNESOTA REAL ESTATE

**NOTWITHSTANDING anything to the contrary herein, enforcement of this mortgage is limited to a debt amount of $ 568,000.00 under chapter 287 of Minnesota Statutes.**

This Mortgage, Security Agreement and Assignment of Rents ("**Mortgage**") is made and entered into by the undersigned borrower(s), guarantor(s) and/or other obligor(s) (collectively the "**Mortgagor**") in favor of U.S. BANK N.A. (the "**Bank**") as of the date set forth below.

## ARTICLE I. MORTGAGE/SECURITY INTEREST

1.1 **Grant of Mortgage/Security Interest.** For consideration received, the Mortgagor hereby mortgages, conveys, grants and collaterally assigns to the Bank the Mortgaged Property (defined below) to secure all of the Mortgagor's Obligations (defined below) to the Bank. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Mortgagor to the Bank, whether or not such Obligations exist under this Mortgage or any other agreements, whether now or hereafter existing, between the Mortgagor and the Bank or in favor of the Bank, including, without limitation, any note, any loan or security agreement, any lease, any other mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, any letter of credit or reimbursement agreement or banker's acceptance, any agreement for any other services or credit extended by the Bank to the Mortgagor even though not specifically enumerated herein and any other agreement with the Bank (together and individually, the "**Loan Documents**").

1.2 "**Mortgaged Property**" means all of the following whether now owned or existing or hereafter acquired by the Mortgagor, wherever located: all the real estate described below or in **Exhibit A** attached hereto (the "**Land**"), together with all buildings, structures, fixtures, furnishings, inventory, equipment, machinery, apparatus, appliances, and articles of personal property of every kind and nature whatsoever, (and all proceeds and products thereof) now or hereafter located on the Land, or any part thereof, and used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "**Improvements**") (the Land and the Improvements collectively the "**Premises**"); any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto; any and all lease or other agreements for the use or occupancy of the Premises, and all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligation thereunder (collectively the "**Rents**"); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises; and any interest of Mortgagor in and to the land lying within any street or roadway adjoining the Premises and any strips and gores adjoining the Premises or any part thereof.

The Land is described as follows (or in Exhibit A hereto if the description does not appear below):

PARCEL#: 82-47182-102 LOT 2, BLOCK 1, GOODIN, STEARNS COUNTY, MINNESOTA

PROPERTY LOCATED AT: 5201 FOUNDRY CIRCLE, ST CLOUD, MN 56303

PARCEL#: 98.61361.000 & 98.61362.000 LOT 2, BLOCK 1, WAITE PARK ACRES, STEARNS COUNTY, MINNESOTA

PROPERTY LOCATED AT: 26 FIRST AVENUE NORTH, WAITE PARK, MN 56387

Property Identification Number 82-47182-102 Mortgage Tax Payable hereon $ 1,306.40

Heartland 20785

1.3 "**Obligations**" means all loans by the Bank to N.R.B. PROPERTIES, including those loans evidenced by a note or notes dated 10/30/02 and 12/24/98 in the initial principal amount(s) of $568,000.00 and $400,000.00, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the "**Note**"); and also means all the Mortgagor's debts, liabilities, obligations, covenants, warranties, and duties to the Bank (plus its affiliates including any credit card debt, but specifically excluding any type of consumer credit), whether now or hereafter existing or incurred, whether liquidated or unliquidated, whether absolute or contingent, whether arising out of the Loan Documents or otherwise, and regardless of whether such Obligations arise out of existing or future credit granted by the Bank to any Mortgagor, to any Mortgagor and others, to others guaranteed, endorsed or otherwise secured by any Mortgagor or to any debtor-in-possession/successor-in-interest of any Mortgagor, and principal, interest, fees, expenses and charges relating to any of the foregoing, including without limitation, costs and expenses of collection and enforcement of this Mortgage, attorneys' fees and environmental assessment or remediation costs. If the maximum debt amount secured by this Mortgage is less than the total amount of the Obligations, this Mortgage will secure the last increment of Obligations outstanding and will not be released until all Obligations have been fully and finally repaid.

1.4 **Homestead.** The Premises are not (are) (are not) the homestead of the Mortgagor.

1.5 **Revolving Credit Facility.** ☐ If checked here, this Mortgage secures a revolving credit facility as that term is defined in Minnesota Statutes Section 287.05. The maximum amount which may be secured at any one time under the revolving credit facility is $ n/a. The Bank is aware of the provisions of Minnesota Statutes Section 287.05 and intends to comply with the requirements thereof.

## ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Mortgagor under the Loan Documents which are expressly incorporated herein as part of this Mortgage, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Mortgagor under the Loan Documents is available or any Obligations of the Mortgagor to the Bank are unpaid or outstanding, the Mortgagor continuously warrants and agrees as follows:

2.1 **Warranty of Title/Possession.** The Mortgagor has sole and exclusive title to and possession of the Premises, excepting only the following "**Permitted Encumbrances**": restrictions and utility easements of record and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments); taxes and assessments not yet due and payable; and those Permitted Encumbrances set forth on **Exhibit B** attached hereto (except that if no Exhibit B is attached there will be no additional Permitted Encumbrances). The lien of this Mortgage, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgaged Property.

2.2 **Maintenance; Waste; Alteration.** The Mortgagor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed Improvements with items of at least equal utility and value. The Mortgagor will not commit or permit waste to be committed on the Premises. The Mortgagor will not remove, demolish or materially alter any part of the Premises without the Bank's prior written consent, except the Mortgagor may remove a fixture or item of personal property, provided the fixture or item of personal property is promptly replaced with another fixture or item of personal property of at least equal utility. The replacement fixture or item of personal property will be subject to the priority lien and security interest of this Mortgage.

2.3 **Transfer and Liens.** The Mortgagor will not, without the prior written consent of the Bank which may be withheld in the Bank's sole and absolute discretion, either voluntarily or involuntarily (i) sell, assign, lease or transfer, or permit to be sold, assigned, leased or transferred any part of the Premises, or any interest therein; or (ii) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances.

2.4 **Escrow.** After written request from the Bank, the Mortgagor will pay to the Bank sufficient funds at such time as the Bank designates, to pay (i) the estimated annual real estate taxes and assessments on the Premises; (ii) all property or hazard insurance premiums when due; and (iii) flood insurance premiums, if any. Interest will not be paid by the Bank on any escrow funds. Escrowed funds may be commingled with other funds of the Bank. All escrowed funds are hereby pledged as additional security for the Obligations.

2.5 **Taxes, Assessments, and Charges.** To the extent not paid to the Bank under 2.4 above, the Mortgagor will pay before they become delinquent all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Bank based upon this Mortgage or the Obligations secured by this Mortgage, or upon the Bank's interest in the Premises, and will deliver to the Bank receipts showing timely payment.

2.6 **Insurance.** The Mortgagor will continually insure the Premises, with insurers acceptable to the Bank, against such perils or hazards as the Bank may require, in amounts not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less, with acceptable co-insurance provisions. The policies will contain an agreement by each insurer that

the policy will not be terminated or modified without at least 30 days' prior written notice to the Bank and will contain a mortgage clause acceptable to the Bank; and the Mortgagor will take such other action as the Bank may reasonably request to ensure that the Bank will receive (subject to no other interests) the insurance proceeds from the Improvements. The Mortgagor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Bank the proceeds of all such insurance and any premium refund; and authorizes the Bank to endorse the Mortgagor's name to effect the same, to make, adjust or settle, in the Mortgagor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.7 **Condemnation.** The Mortgagor will pay to the Bank all compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof. The compensation will be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.8 **Environmental Matters.** Except as specifically disclosed by Mortgagor to Bank in writing prior to the execution of this Mortgage, Mortgagor represents and warrants as follows. There exists no uncorrected violation by the Mortgagor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively **"Environmental Laws"**). The term **"Hazardous Substances"** will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Mortgagor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Mortgagor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively **"Remedial Action"**); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Borrower's environmental questionnaire provided to the Bank, there are not now, nor to the Mortgagor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Mortgagor during the periods that the Mortgagor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Mortgagor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Mortgagor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Mortgagor to Remedial Action or other liability. The Mortgagor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Bank, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Mortgagor or Remedial Action or other response by or on the part of the Mortgagor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Mortgagor for an alleged violation of Environmental Laws. In the event of any such circumstance or condition, the Mortgagor agrees, at its expense and at the request of the Bank, to permit an environmental audit solely for the benefit of the Bank, to be conducted by the Bank or an independent agent selected by the Bank and which may not be relied on by the Mortgagor for any purpose. This provision shall not relieve the Mortgagor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws.

2.9 **Assignments.** The Mortgagor will not assign, in whole or in part, to anyone other than the Bank, the rents, issues or profits arising from the Premises, without the Bank's prior written consent.

2.10 **Right of Inspection.** The Bank may at all reasonable times enter and inspect the Premises.

2.11 **Waivers by Mortgagor.** To the greatest extent that such rights may then be lawfully waived, the Mortgagor hereby agrees for itself and any persons claiming under the Mortgagor that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisement of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) any statute of limitations now or at any time hereafter in force; or (d) any right to require marshalling of assets by the Bank.

2.12 **Assignment of Rents and Leases.** The Mortgagor assigns and transfers to the Bank, as additional security for the Obligations, all right, title and interest of the Mortgagor in and to all leases which now exist or hereafter may be executed by or on behalf of the Mortgagor covering the Premises, and any extensions or renewals thereof, together with all Rents. Upon default under this Mortgage or any of the Loan Documents or any Obligation (notwithstanding any cure period), the Bank shall be immediately entitled to the Rents and the Bank may, at its option, affirmatively perfect its claim to the Rents by executing and delivering written notice to the Mortgagor declaring that the Rents are the property of the Bank. After the giving of such notice, the Bank, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Bank or its

designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Mortgagor that the Mortgagor should collect all Rents arising from the Premises and remit them to the Bank upon collection and that the Mortgagor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Mortgagor shall be held in trust by the Mortgagor for the Bank. All such payments received by the Bank shall be applied, first, in such manner and order as may be prescribed by Minnesota Statutes Section 576.01, as amended, and, second, in any manner and order of payment as the Bank determines to payments required under this Mortgage, the Loan Documents and the Obligations. The Mortgagor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Bank.

2.13 **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Mortgagor as set forth in this Mortgage and the name and address of the secured party is the name and address of the Bank as set forth in this Mortgage. The Mortgaged Property includes goods which are or are to become fixtures.

2.14 **Compliance with Leases.** The Mortgagor will comply with all terms, covenants and conditions of any lease(s) affecting the Premises. Mortgagor will not accept any prepayment of rent for more than one month in advance, without the prior written consent of the Bank.

## ARTICLE III. RIGHTS AND DUTIES OF THE BANK

In addition to all other rights (including setoff) and duties of the Bank under the Loan Documents which are expressly incorporated herein as a part of this Mortgage, the following provisions will also apply:

3.1 **Bank Authorized to Perform for Mortgagor.** If the Mortgagor fails to perform any of the Mortgagor's duties or covenants set forth in this Mortgage, the Bank may perform the duties or cause them to be performed, including without limitation signing the Mortgagor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Mortgagor to the Bank from the date of expenditure by the Bank to date of payment by the Mortgagor, and will be one of the Obligations secured by this Mortgage. All acts by the Bank are hereby ratified and approved, and the Bank will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

## ARTICLE IV. DEFAULTS AND REMEDIES

The Bank may enforce its rights and remedies under this Mortgage upon default. A default will occur if the Mortgagor fails to comply with the terms of any Loan Documents or this Mortgage (including any guaranty by the Mortgagor) or defaults under the terms of any other mortgage affecting the Premises, or if any other obligor fails to comply with the terms of any loan documents for which the Mortgagor has given the Bank a guaranty secured by this Mortgage. Upon occurrence of a default, the Bank may declare the Obligations to be immediately due and payable.

4.1 **Cumulative Remedies; Waiver.** In addition to the remedies for default set forth in the Loan Documents, including acceleration, the Bank upon default will have all other rights and remedies for default available by law or equity including foreclosure of this Mortgage. The rights and remedies specified herein are cumulative and are not exclusive of any rights or remedies which the Bank would otherwise have. With respect to such rights and remedies:

a. **Receiver.** To the greatest extent that such rights may then be lawfully waived, upon the commencement or during the pendency of any action to foreclose this Mortgage, the Bank will be entitled, as a matter of right, without notice or demand and without giving bond or other security, and without regard to the solvency or insolvency of the Mortgagor or to the value of the Premises, to have a receiver appointed for all or any part of the Premises, which receiver will be authorized to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action, and until the confirmation of sale made under any judgment foreclosing this Mortgage, and to hold and apply such rents, issues and profits, when so collected, as the court will from time to time direct.

b. **Foreclosure/Suit.** The Mortgagor confers upon the Bank the authority and power to proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, and in addition authorizes the Bank to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple, as provided by law, and the Mortgagor to remain liable for any deficiency. Said sale may be as one tract or otherwise, at the sole option of the Bank. The Mortgagor agrees that, for the purpose of Section 580.08, Minnesota Statutes, the Mortgaged Property is a single tract.

c. **Power of Sale.** In the event of foreclosure, the Bank may sell the Premises at public sale and execute and deliver to the purchasers deeds of conveyance pursuant to statute.

d. **Waiver by the Bank.** The Bank may permit the Mortgagor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Bank may waive any default without waiving any other subsequent or prior default by the Mortgagor. Furthermore, delay on the part of the Bank in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless

the Bank has expressly agreed in writing specifying such waiver or suspension.

e. **Uniform Commercial Code.** The Bank shall have all of the rights and remedies provided under the Minnesota Uniform Commercial Code.

## ARTICLE V. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Mortgage, the following provisions will also apply:

5.1 **Term of Mortgage.** The Bank's rights under this Mortgage will continue until the Bank's commitment to lend has been terminated or expired, and until all Obligations have been paid in full and performed.

5.2 **Time of the Essence.** Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Mortgagor and the payment of taxes, assessments, and similar charges and insurance premiums.

5.3 **Subrogation.** The Bank will be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the Note.

5.4 **Choice of Law.** Foreclosure of this Mortgage will be governed by the laws of the state in which the Land is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

5.5 **Severability.** Invalidity or unenforceability of any provision of this Mortgage shall not affect the validity or enforceability of any other provision.

5.6 **Entire Agreement.** This Mortgage is intended by the Mortgagor and Bank as a final expression of this Mortgage and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Mortgage. No parol evidence of any nature shall be used to supplement or modify any terms.

5.7 **Joint Liability; Successors and Assigns.** If there is more than one Mortgagor, the liability of the Mortgagors will be joint and several, and the reference to "Mortgagor" shall be deemed to refer to all Mortgagors. The rights, options, powers and remedies granted in this Mortgage and the other Loan Documents shall extend to the Bank and to its successors and assigns, shall be binding upon the Mortgagor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

5.8 **Indemnification.** Except for harm arising from the Bank's willful misconduct, the Mortgagor hereby indemnifies and agrees to defend and hold the Bank harmless from any and all losses, costs, damages, claims and expenses of any kind suffered by or asserted against the Bank relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Mortgagor's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above). This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Mortgage and Obligations due the Bank.

5.9 **Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

5.10 **Riders.** The rider(s) attached hereto and recorded together with this Mortgage are hereby fully incorporated into this Mortgage.

[Check applicable box(es)] ☒ Construction Loan Rider ☐ Condominium Rider ☐ Second Mortgage Rider

☐ Other(s) (Specify) _____

**[SIGNATURE(S) ON NEXT PAGE]**

IN WITNESS WHEREOF, the undersigned has/have executed this MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS as of OCTOBER 30, 2002.

(Individual Mortgagor)

Mortgagor Name N/A

(Individual Mortgagor)

Mortgagor Name N/A

*NOTE: If individuals are married, both spouses must sign.*

N.R.B. PROPERTIES
Mortgagor Name (Organization)

a MINNESOTA General Partnership

By _____

Name and Title RICHARD LINDMEIER JR, PARTNER

By _____

Name and Title WARREN NIKODYM, PARTNER

(Mortgagor Address)

26 FIRST AVENUE NORTH
WAITE PARK, MN 56387

(Bank Address)

U.S. BANK N.A.
400 CITY CENTER
OSHKOSH, WI 54901

STATE OF Minnesota
COUNTY OF Stearns
} ss.

This instrument was acknowledged before me on October 31, 2002 (Date), by RICHARD LINDMEIER JR and WARREN NIKODYM (Name(s) of person(s)), as PARTNER and PARTNER (Type of authority, if any, e.g., officer, trustee; if an individual, state "a married individual" or "a single individual") of N.R.B. PROPERTIES (Name of entity on whose behalf the document was executed; use N/A if individual)

(Notarial Seal) DAVID ARTHUR ERICKSON
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

D A. Erickson

Printed Name: David A. Erickson

Notary Public, State of: Minnesota

My commission expires: 1-31-2005

This instrument was drafted by JEFFREY J WAGNER (name)

on behalf of

After recording return to U.S. BANK N.A. (name)
COLLATERAL DEPARTMENT
P.O. BOX 3487, OSHKOSH, WI 54903-3487 (address)

## CONSTRUCTION LOAN RIDER TO MORTGAGE

6479000009

Mortgagor: N.R.B. PROPERTIES

Bank: U.S. BANK N.A.

The following provisions are hereby made a part of the Mortgage to which this Rider is attached:

Cessation of Construction. The loan secured hereby was obtained to assist in financing building construction or remodeling, or land development, or other improvements to the Premises (as provided in the Construction Loan Agreement between Mortgagor and Bank of even date with the note evidencing such loan, which is made a part hereof by this reference, which no third party is entitled to rely upon) and: (a) If such construction, remodeling, development, or improvement shall not, in accordance with plans and specification approved by Bank, be completed prior to the expiration date established by Bank or (b) If work on the same shall cease before completion and remain abandoned for a period of thirty consecutive days; then the existence of either circumstance shall constitute an event of default under the terms of this instrument, and at any time thereafter, said note and the whole indebtedness secured hereby shall, at the option of the Bank and without notice to Mortgagor (such notice being hereby expressly waived), become due and collectible at once by foreclosure or otherwise. In the event of such cessation or abandonment of work as aforesaid, Bank may, at its option, also enter upon the Premises and complete such improvements and Mortgagor hereby gives to Bank full power and authority to make such entry and to enter into such contracts or arrangements as it may consider necessary to complete the same. All monies expended by Bank in connection with completion of said improvements shall be added to the indebtedness hereby secured and shall be payable by Mortgagor immediately and without demand, with interest at the default rate specified in the Note. Bank shall have the right to enter upon the Premises at any and all times to inspect the same.

Construction Mortgage. This Mortgage shall be deemed to be a construction mortgage, as that term is defined in the Uniform Commercial Code, as amended, securing an obligation incurred for the construction of an improvement on the Land, which may include the acquisition cost of the Land, and any notes issued in extension or renewal thereof or substitution therefor. If and to the extent that any of such actions could, under the laws of the state in which the Land is located, form the basis of or result in a security interest in or lien against the Land or any Improvements thereon having priority over this Mortgage, Mortgagor affirms, acknowledges and warrants that prior to the recordation of this Mortgage in the real property records of the county or counties where the Land is located, no contract will have been entered into nor will any improvements have been constructed upon the Land, nor will any material have been delivered to the Land in regard to the project for which the loan or loans evidenced by the Note have been made. It is understood and agreed that funds are to be advanced upon the Note in accordance with a Construction Loan Agreement made by and between the Mortgagor and the Bank of even date herewith, which said Construction Loan Agreement is incorporated herein by reference to the same extent and effect as if fully set forth herein and made a part of this Mortgage. This Mortgage secures the payment of all sums and the performance of all covenants required by Mortgagor by said Construction Loan Agreement, and on the failure of Mortgagor to keep and perform all the covenants, conditions and agreements of said Construction Loan Agreement, the principal sum and all interest and other charges provided for herein and secured hereby shall, at the option of the Bank, become due and payable, anything herein contained to the contrary notwithstanding.

1029999

02 NOV -1 AM 11:51

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY [signature] DEPUTY

2
7E(2)

1030000

02 NOV -1 AM 11:51

COUNTY RECORDER
STEARNS CO. MN
PATRICIA M. OVERMAN
BY DEPUTY

# Affidavit

I, Richard Lindmeier, Jr. make the following statements based upon a personal knowledge of the facts concerning the following real property located in Stearns County, Minnesota: Lot 2, Block 1, Goodin.

I, Warren Nikodym make the following statements based upon a personal knowledge of the facts concerning the following real property located in Stearns County, Minnesota: Lot 2, Block 1, Goodin

1. We are the partners of NRB Properties.

2. Doc. No. 1016907 is a deed transferring title to NRB Properties W. Nikodym / R. Lindmeier, Partners, a Minnesota Partnership.

3. This deed is typed incorrectly. The true and correct name of the Partnership is NRB Properties, a Minnesota Partnership.

Richard J. Lindmeier, Jr.

Warren Nikodym

Subscribed and sworn to before me Richard J. Lindmeier, Jr. and Warren Nikodym, this October 30, 2002.

Notary Public

Drafted by:
Heartland Title
18 South 15th Avenue
St. Cloud, MN 56301
Heartland 20785

DAVID ARTHUR ERICKSON
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

SCR 1 of 1

20.L-

[redacted]

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone.(800) 331-3282 Fax: (818) 662-4141

B. SEND ACKNOWLEDGEMENT TO: (Name and Address) 508347 IWELLSFARGO16

end
UCC Direct Services
P.O. Box 29071
Glendale, CA 91209-9071

5712706

MNMN

File with: Steams, MN

1046227
03 FEB 24 PM 1:26
COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER
BY DK DEPUTY

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: North Tier Landco, LLC

OR

| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 2700 N 2nd Str. PO Box 9326 | Minneapolis | MN | 55440 | |

| 1d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | Limited Liability Corporation | MN | 6738-LLC ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a ORGANIZATION'S NAME

OR

| 2b INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 2d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: Wells Fargo Bank, National Associaton

OR

| 3b INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 3c MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| Sixth Street & Marquette | Minneapolis | MN | 55479 | |

4. This FINANCING STATEMENT covers the following collateral:

SEE ATTACHED EXHIBIT A & B

5. ALTERNATIVE DESIGNATION [if applicable] ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. [X] This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

5712706 4 3459624899/1342

SCR 1 of 4

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV 07/29/98)

Prepared by UCC Direct Services, P O Box 29071, Glendale, CA 91209-9071 Tel (800) 331-3282

# FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a ORGANIZATION'S NAME
North Tier Landco, LLC

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME,SUFFIX |
|---|---|---|
| | | |

10. MISCELLANEOUS

**5712706-40-1**

**508347 IWELLSFARGO16**

4 3459624899/1342

File with: Stearns, MN

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

| 11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 11d. TAX ID#. SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 11e TYPE OF ORGANIZATION | 11f JURISDICTION OF ORGANIZATION | 11g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

12 ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P's NAME - insert only one name (12a or 12b)

12a ORGANIZATION'S NAME

OR

| 12b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 12c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

13 This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral or is filed as a ☒ fixture filing.

14. Description of real estate

Description: See attached Exhibit A & B

16. Additional collateral description.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17 Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction – effective 30 years

☐ Filed in connection with a Public-Finance Transaction – effective 30 years

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 07/29/98)

Prepared by UCC-Direct Services, Inc., P O Box 29071 Glendale, CA 91209-9071 Tel (800) 331-3282

SCR 4 of 8

Exhibit A

(Description of Collateral)

All of Debtor's right, title and interest in and to (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing. This filing is not a filing on inventory and is not intended to secure any personal property of the Debtor except as set forth in (d) through (g) above.

STPI: 454829-2

**EXHIBIT B**

(Legal Description)

Lot One (1), Block One (1), Foundry Addition, Stearns County, Minnesota.

[redacted]

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

1047244
03 MAR -3 PM 2:35

COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER
BY OK DEPUTY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone (800) 331-3282 Fax: (818) 662-4141

B. SEND ACKNOWLEDGEMENT TO: (Name and Address)

✓UCC Direct Services
end P.O. Box 29071
Glendale, CA 91209-9071

508347 IWELLSFARGO16
5717634
MNMN

File with: Stearns, MN

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: North Tier Landco, LLC

OR

| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 2700 N 2nd Str. PO Box 9326 | Minneapolis | MN | 55440 | |

| 1d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | Limited Liability Corporation | MN | 6738-LLC ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

| 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 2c MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 2d TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e TYPE OF ORGANIZATION | 2f JURISDICTION OF ORGANIZATION | 2g ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: Wells Fargo Bank, N.A.

OR

| 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 90 S 7th St | Minneapolis | MN | 55479 | |

4. This FINANCING STATEMENT covers the following collateral:

SEE EXHIBIT A & B

5. ALTERNATIVE DESIGNATION [if applicable] ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6 [X] This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7 Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8 OPTIONAL FILER REFERENCE DATA

5717634 4 3459624899/1342

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/29/98)

Prepared by UCC Direct Services, P O Box 29071, Glendale, CA 91209-9071 Tel (800) 331-3282

SCR 1 of 4

**EXHIBIT B**

(Legal Description)

Lot One (1), Block One (1), Foundry Addition, Stearns County, Minnesota.

2/60
20.

1072061
03 JUL 31 AM 10:58
COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER
BY CK DEPUTY

SPACE ABOVE THIS LINE FOR RECORDING

# SATISFACTION OF MORTGAGE

DATE: JULY 02, 2003

THAT CERTAIN MORTGAGE OWNED BY THE UNDERSIGNED, a CORPORATION under the laws of THE STATE OF MINNESOTA, DATED APRIL 10, 1990 executed by THEISEN DESIGN & MANUFACTURING, INC, A MINNESOTA CORPORATION, as Mortgagor, to PLAZA PARK BANK, as Mortgagee, and filed for record OCTOBER 19, 1990 as Document Number 0685223 (or in Book _____ of _____ Page _____), in the office of the (County Recorder) (Registrar of Titles) of STEARNS County, Minnesota, is with the indebtedness thereby secured, fully paid and satisfied.

PLAZA PARK BANK

By Gregory L. Tschida V.P.
Its GREGORY L TSCHIDA, VICE PRESIDENT

By Patrick L Schad, Loan Officer
Its PATRICK L. SCHAD, LOAN OFFICER

STATE OF MINNESOTA } ss.
COUNTY OF STEARNS }

The foregoing instrument was acknowledged before this 2nd day of JULY, 2003 by GREGORY L. TSCHIDA and PATRICK L. SCHAD, the VICE PRESIDENT and LOAN OFFICER of PLAZA PARK BANK a CORPORATION under the laws of THE STATE OF MINNESOTA, on behalf of the CORPORATION.

STATE OF Minnesota }
}
COUNTY OF Stearns }

Sandra Irene Wehlage
SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT

THIS INSTRUMENT DRAFTED BY:

PLAZA PARK BANK
BOX 337
WAITE PARK MN 56387

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

SANDRA IRENE WEHLAGE
Notary Public-Minnesota
My Comm. Expires Jan. 31, 2005

SCR 1 of 1

20.00

1094184
03 DEC 22 PM 1:01

COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER
BY ldg DEPUTY

# ROADWAY EASEMENT AGREEMENT

**This Roadway Easement Agreement,** dated as of December 12, 2003, is made between Minnesota Logistics, a Minnesota limited liability company (as "Grantor") and Grede-St. Cloud, Inc., a Minnesota corporation (as "Grantee").

## RECITALS

Grantor is the owner of Lot 12, First Addition to St. Cloud Industrial Park, according to the recorded plat thereof, Stearns County, Minnesota ("Grantor's Property").

Grantee is the owner of adjacent property described as Lot 3, Block 1, Foundry Addition, according to the recorded plat thereof, Stearns County, Minnesota. ("Grantee's Property").

Grantor, at Grantee's request, is agreeable to granting to Grantee a roadway easement over and across a part of Grantor's Property for purposes of ingress to and egress from Grantee's Property.

NOW THEREFORE, in consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a perpetual roadway easement for the purpose of providing Grantee access to Grantee's Property by means of Grantee's construction gate during construction projects as well as semi-trailer type tanker trucks at any time of the day and any day of the week over and across that part of Grantor's Property described on Exhibit A attached hereto and made a part of this Agreement (the "Easement Area").



SCR 1 of 4

2. Maintenance of Easement Area. The Easement Area shall be maintained by the Grantor in a condition comparable to its current condition at Grantor's sole cost and expense. Such maintenance shall include the removal of accumulated snow within a reasonable period of time after such condition is found to exist.

3. Hold Harmless and Indemnification. Except for claims, actions and damages resulting from Grantor's or Grantee's sole negligence or willful fault, Grantor and Grantee each agree to indemnify and hold the other harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury or damaged property arising from or out of any occurrence in or upon the Easement Area. In the event either Grantor or Grantee shall, without negligence or willful fault, be made a party to any litigation commenced by or against Grantor or Grantee in connection with the Easement Area, then Grantor and Grantee each agree to indemnify and hold the other harmless from any expense incurred and paid in connection with such litigation.

4. Appurtenant Easement. The Easement herein granted shall be held by the Grantee, its successors and assigns, as appurtenant to and for the benefit of Grantee's Property and as a burden to that portion of Grantor's Property contained within the Easement Area.

5. Acknowledgement of Existing Easement Rights. Both the Grantor and Grantee acknowledge that the Easement Area may be subject to certain underground utility rights granted to the City of St. Cloud and public utilities authorized to do business within said city, as described in that certain Roadway Easement Deed dated May 6, 1969, filed for record May 20, 1969 and recorded in Book 49 of Assignments and Agreements page 62, in the office of the Stearns County Recorder or reserved by Ordinance No. 2153 adopted by the Council of the City of St. Cloud on November 3, 2003. Therefore, this grant is made without warranty and is made subject to all rights and interests with respect to other rights-of-way, easements, licenses and grants to existing improvements and with the understanding that additional rights-of-way may hereafter be granted by Grantor to others to install facilities in or upon the Easement Area so long as the location of such future facilities or other uses of the Easement Area do not physically interfere with the easement rights herein granted to Grantee.

6. Rights Retained by Grantor. Except for the rights herein granted, Grantor, its successors and assigns, shall retain exclusive control over the Easement Area, including, without limitation, the right to use all parts of the Easement Area not used by Grantee for Grantor's own business purposes.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

GRANTOR:
Minnesota Logistics

By _____
Its Chief Manager

GRANTEE:
Grede-St. Cloud, Inc.

By W. T. Rencr
Its VP Operations

STATE OF MINNESOTA )
)ss
COUNTY OF STEARNS )

On this 10th day of December, 2003, before me a Notary Public within and for said county, personally appeared John L. Maiers, the Chief Manager of Minnesota Logistics, a Minnesota limited liability company and acknowledged said instrument to be the free act and deed of the limited liability company.

Renee M. Dowsett
Notary Public

RENEE M. DOWSETT
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

STATE OF MINNESOTA )
)ss
COUNTY OF STEARNS )

On this 12 day of December, 2003, before me a Notary Public within and for said county, personally appeared William Rinek, the VP Operations of Grede-St. Cloud, Inc. and acknowledged said instrument to be the free act and deed of the corporation.

Michael J Flannery
Notary Public

MICHAEL J. FLANNERY
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

This instrument drafted by:
Dennis J. Sullivan
Attorney at Law
400 First Street South, Suite 600
P.O. Box 1008
St. Cloud, MN 56302-1008
(320) 251-1414
184769

Exhibit A
Minnesota Logistics – Grede-St. Cloud, Inc.
Description of Easement Area

A strip of land 18 feet in width being 9 feet on each side of the following described line: Commencing at a point on the common line between the West line of Lot 12, in First Addition to St. Cloud Industrial Park, according to the recorded plat thereof, on file and of record in the Office of the County Recorder, Stearns County, Minnesota, and the East line of Block 1, in Foundry Addition, according to the recorded plat thereof, on file and of record in the Office of the County Recorder, Stearns County, Minnesota, said point of commencement being more particularly described as the Northeast Corner of Lot 3, Block 1 of said Foundry Addition: thence South 00°05'08" East, on an assumed bearing along the east line of said Lot 3, Block 1, a distance of 40.00 feet; Thence North 89°54'52" East, parallel to the north line of said Lot 3, Block 1, a distance of 49.50 feet to the point of beginning of the centerline to be described; Thence South 00°05'08" East, parallel with the east line of said Lot 3, Block 1, a distance of 128.77 feet; Thence 62.83 feet southwesterly along a tangential curve concave to the northwest, having a central angle of 90°00'00" and a radius of 40.00 feet; Thence South 89°54'52" West, tangent to said curve, a distance of 9.50 feet more or less to the east line of said Lot 3, Block 1, and there terminating. The side lines of said easement are to be prolonged or shortened to terminate on the east line of said Lot 3, Block 1.

19.50 (12)

Transfer entered

Date Oct. 15, 2004

Randy R. Schmidt
County Auditor

By _____ Deputy

1130161

04 OCT 15 PM 12:55

COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GROSHOEFER

BY _____ DEPUTY

98-61361-000
98-61362-000

**QUIT CLAIM DEED**
Partnership to Limited Liability Company

STATE DEED TAX DUE HEREON $1.65
Date: 10-4, 2004

FOR VALUABLE CONSIDERATION, NRB PROPERTIES, a general partnership under the laws of Minnesota, Grantor, hereby conveys and quit claims to NRB PROPERTIES, LLC Grantee, a Minnesota limited liability company, real property in Stearns County, Minnesota, described as follows:

Lot Two (2), Block One (1), Waite Park Acres, less and except the South Two Acres of Lot Two (2), Block One (1), Waite Park Acres, Stearns County, Minnesota;

AND

The South Two Acres of Lot Two (2), Block One (1), Waite Park Acres, Stearns County, Minnesota;

AND

Lot Two (2), Block One (1), Goodin Addition, Stearns County, Minnesota;

"THE GRANTOR CERTIFIES THAT THE GRANTOR DOES NOT KNOW OF ANY WELLS ON THE DESCRIBED REAL PROPERTY."

together with all hereditaments and appurtenances belonging thereto.

16 TRES08
10/15/2004 11:19:35
040032325 DEED TX

PAID

1.65



SCR 1 of 2

NRB Properties, General Partnership:

Richard J. Lindmeier, Jr., as Trustee of the Richard J. Lindmeier, Jr. Revocable Trust dated March 29, 2000, a partner

Warren Nikodym, a partner

STATE OF MINNESOTA )
) ss.
COUNTY OF Stearns )

The foregoing instrument was acknowledged before me this 4th day of October, 2004, by Richard J. Lindmeier, Jr., as Trustee of the Richard J. Lindmeier, Jr. Revocable Trust dated March 29, 2000, and Warren Nikodym, as the partners of NRB PROPERTIES, a general partnership under the laws of Minnesota, Grantor.

NOTARIAL STAMP OR SEAL

ROBERT L. SCHUMANN
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2005

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
Robert L. Schumann
Suite 600
1010 West St. Germain
St. Cloud, Minnesota 56301
(320) 252-4414

Tax statements for the real property described in this instrument should be sent to:

Rick Lindmeier
31819 Cottonwood Road
Cushing, MN 56443

THE TOTAL CONSIDERATION FOR THIS TRANSFER OF PROPERTY IS $500 OR LESS.

Legal Description Provided by Grantor

GP:1575805 v3

:ODMA\PCDOCS\GPDOCS1\1575805\3



SCR 2 of 2

1950 UHW
6-15.
142600

MORTGAGE REGISTRATION TAX 1426.00
Randy R Schmitz
STEARNS COUNTY AUDITOR
Brenda Stanger
DEPUTY AUDITOR

1156898

05 JUN 15 PM 1:06

COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER
BY GK DEPUTY

# MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS

3378408612

(INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)

## MINNESOTA REAL ESTATE

**NOTWITHSTANDING anything to the contrary herein, enforcement of this mortgage is limited to a debt amount of $ 620,000.00 under chapter 287 of Minnesota Statutes.**

This Mortgage, Security Agreement and Assignment of Rents ("**Mortgage**") is made and entered into by the undersigned borrower(s), guarantor(s) and/or other obligor(s) (collectively the "**Mortgagor**") in favor of U.S. BANK N.A. (the "**Bank**") as of the date set forth below.

## ARTICLE I. MORTGAGE/SECURITY INTEREST

1.1 **Grant of Mortgage/Security Interest.** For consideration received, the Mortgagor hereby mortgages, conveys, grants and collaterally assigns to the Bank the Mortgaged Property (defined below) to secure all of the Mortgagor's Obligations (defined below) to the Bank. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Mortgagor to the Bank, whether or not such Obligations exist under this Mortgage or any other agreements, whether now or hereafter existing, between the Mortgagor and the Bank or in favor of the Bank, including, without limitation, any note, any loan or security agreement, any lease, any other mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, any letter of credit or reimbursement agreement or banker's acceptance, any agreement for any other services or credit extended by the Bank to the Mortgagor even though not specifically enumerated herein and any other agreement with the Bank (together and individually, the "**Loan Documents**").

1.2 "**Mortgaged Property**" means all of the following whether now owned or existing or hereafter acquired by the Mortgagor, wherever located: all the real estate described below or in **Exhibit A** attached hereto (the "**Land**"), together with all buildings, structures, standing timber, timber to be cut, fixtures, furnishings, inventory, equipment, machinery, apparatus, appliances, and articles of personal property of every kind and nature whatsoever, (and all proceeds and products thereof) now or hereafter located on the Land, or any part thereof, and used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "**Improvements**") (the Land and the Improvements collectively the "**Premises**"); any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto; any and all lease or other agreements for the use or occupancy of the Premises, and all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligation thereunder (collectively the "**Rents**"); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises; and any interest of Mortgagor in and to the land lying within any street or roadway adjoining the Premises and any strips and gores adjoining the Premises or any part thereof.

The Land is described as follows (or in Exhibit A hereto if the description does not appear below):

See Attached Exhibit A

27 TRES10
6/15/2005 11:57:13
050017884 MR STATE T

PAID

1,425.00

Property Identification Number 82.47182.102

Mortgage Tax Payable hereon $ 1,426.00



VHTA

SCR 1 of 9

1.3 **"Obligations"** means all loans by the Bank to NRB PROPERTIES, LLC, including those loans evidenced by a note or notes dated 06/14/05 in the initial principal amount(s) of $620,000.00, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the **"Note"**); and also means all the Mortgagor's debts, liabilities, obligations, covenants, warranties, and duties to the Bank (plus its affiliates including any credit card debt, but specifically excluding any type of consumer credit), whether now or hereafter existing or incurred, whether liquidated or unliquidated, whether absolute or contingent, whether arising out of the Loan Documents or otherwise, and regardless of whether such Obligations arise out of existing or future credit granted by the Bank to any Mortgagor, to any Mortgagor and others, to others guaranteed, endorsed or otherwise secured by any Mortgagor or to any debtor-in-possession/successor-in-interest of any Mortgagor, and principal, interest, fees, expenses and charges relating to any of the foregoing, including without limitation, costs and expenses of collection and enforcement of this Mortgage, attorneys' fees and environmental assessment or remediation costs. If the maximum debt amount secured by this Mortgage is less than the total amount of the Obligations, this Mortgage will secure the last increment of Obligations outstanding and will not be released until all Obligations have been fully and finally repaid.

1.4 **Homestead.** The Premises are not (are) (are not) the homestead of the Mortgagor.

1.5 **Revolving Credit Facility.** ☐ If checked here, this Mortgage secures a revolving credit facility as that term is defined in Minnesota Statutes Section 287.05. The maximum amount which may be secured at any one time under the revolving credit facility is $ n/a. The Bank is aware of the provisions of Minnesota Statutes Section 287.05 and intends to comply with the requirements thereof.

## ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Mortgagor under the Loan Documents which are expressly incorporated herein as part of this Mortgage, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Mortgagor under the Loan Documents is available or any Obligations of the Mortgagor to the Bank are unpaid or outstanding, the Mortgagor continuously warrants and agrees as follows:

2.1 **Warranty of Title/Possession.** The Mortgagor has sole and exclusive title to and possession of the Premises, excepting only the following **"Permitted Encumbrances"**: restrictions and utility easements of record and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments); taxes and assessments not yet due and payable; and those Permitted Encumbrances set forth on **Exhibit B** attached hereto (except that if no Exhibit B is attached there will be no additional Permitted Encumbrances). The lien of this Mortgage, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgaged Property.

2.2 **Maintenance; Waste; Alteration.** The Mortgagor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed Improvements with items of at least equal utility and value. The Mortgagor will not commit or permit waste to be committed on the Premises. The Mortgagor will not remove, demolish or materially alter any part of the Premises without the Bank's prior written consent, except the Mortgagor may remove a fixture or item of personal property, provided the fixture or item of personal property is promptly replaced with another fixture or item of personal property of at least equal utility. The replacement fixture or item of personal property will be subject to the priority lien and security interest of this Mortgage.

2.3 **Transfer and Liens.** The Mortgagor will not, without the prior written consent of the Bank which may be withheld in the Bank's sole and absolute discretion, either voluntarily or involuntarily (i) sell, assign, lease or transfer, or permit to be sold, assigned, leased or transferred any part of the Premises, or any interest therein; or (ii) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances.

2.4 **Escrow.** After written request from the Bank, the Mortgagor will pay to the Bank sufficient funds at such time as the Bank designates, to pay (i) the estimated annual real estate taxes and assessments on the Premises; (ii) all property or hazard insurance premiums when due; and (iii) flood insurance premiums, if any. Interest will not be paid by the Bank on any escrow funds. Escrowed funds may be commingled with other funds of the Bank. All escrowed funds are hereby pledged as additional security for the Obligations.

2.5 **Taxes, Assessments, and Charges.** To the extent not paid to the Bank under 2.4 above, the Mortgagor will pay before they become delinquent all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Bank based upon this Mortgage or the Obligations secured by this Mortgage, or upon the Bank's interest in the Premises, and will deliver to the Bank receipts showing timely payment.

2.6 **Insurance.** The Mortgagor will continually insure the Premises, with insurers acceptable to the Bank, against such perils or hazards as the Bank may require, in amounts not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less, with acceptable co-insurance provisions. The policies will contain an agreement by each insurer that

the policy will not be terminated or modified without at least 30 days' prior written notice to the Bank and will contain a mortgage clause acceptable to the Bank; and the Mortgagor will take such other action as the Bank may reasonably request to ensure that the Bank will receive (subject to no other interests) the insurance proceeds from the Improvements. The Mortgagor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Bank the proceeds of all such insurance and any premium refund; and authorizes the Bank to endorse the Mortgagor's name to effect the same, to make, adjust or settle, in the Mortgagor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.7 **Condemnation.** The Mortgagor will pay to the Bank all compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof. The compensation will be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.8 **Environmental Matters.** Except as specifically disclosed by Mortgagor to Bank in writing prior to the execution of this Mortgage, Mortgagor represents and warrants as follows. There exists no uncorrected violation by the Mortgagor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively **"Environmental Laws"**). The term **"Hazardous Substances"** will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Mortgagor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Mortgagor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively **"Remedial Action"**); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Borrower's environmental questionnaire provided to the Bank, there are not now, nor to the Mortgagor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Mortgagor during the periods that the Mortgagor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Mortgagor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Mortgagor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Mortgagor to Remedial Action or other liability. The Mortgagor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Bank, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Mortgagor or Remedial Action or other response by or on the part of the Mortgagor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Mortgagor for an alleged violation of Environmental Laws. In the event of any such circumstance or condition, the Mortgagor agrees, at its expense and at the request of the Bank, to permit an environmental audit solely for the benefit of the Bank, to be conducted by the Bank or an independent agent selected by the Bank and which may not be relied on by the Mortgagor for any purpose. This provision shall not relieve the Mortgagor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws.

2.9 **Assignments.** The Mortgagor will not assign, in whole or in part, to anyone other than the Bank, the rents, issues or profits arising from the Premises, without the Bank's prior written consent.

2.10 **Right of Inspection.** The Bank may at all reasonable times enter and inspect the Premises.

2.11 **Waivers by Mortgagor.** To the greatest extent that such rights may then be lawfully waived, the Mortgagor hereby agrees for itself and any persons claiming under the Mortgagor that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisement of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) any statute of limitations now or at any time hereafter in force; or (d) any right to require marshalling of assets by the Bank.

2.12 **Assignment of Rents and Leases.** The Mortgagor assigns and transfers to the Bank, as additional security for the Obligations, all right, title and interest of the Mortgagor in and to all leases which now exist or hereafter may be executed by or on behalf of the Mortgagor covering the Premises, and any extensions or renewals thereof, together with all Rents. Upon default under this Mortgage or any of the Loan Documents or any Obligation (notwithstanding any cure period), the Bank shall be immediately entitled to the Rents and the Bank may, at its option, affirmatively perfect its claim to the Rents by executing and delivering written notice to the Mortgagor declaring that the Rents are the property of the Bank. After the giving of such notice, the Bank, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Bank or its

designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Mortgagor that the Mortgagor should collect all Rents arising from the Premises and remit them to the Bank upon collection and that the Mortgagor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Mortgagor shall be held in trust by the Mortgagor for the Bank. All such payments received by the Bank shall be applied, first, in such manner and order as may be prescribed by Minnesota Statutes Section 576.01, as amended, and, second, in any manner and order of payment as the Bank determines to payments required under this Mortgage, the Loan Documents and the Obligations. The Mortgagor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Bank.

2.13 **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Mortgagor as set forth in this Mortgage and the name and address of the secured party is the name and address of the Bank as set forth in this Mortgage. The Mortgaged Property includes goods which are or are to become fixtures.

2.14 **Compliance with Leases.** The Mortgagor will comply with all terms, covenants and conditions of any lease(s) affecting the Premises. Mortgagor will not accept any prepayment of rent for more than one month in advance, without the prior written consent of the Bank.

## ARTICLE III. RIGHTS AND DUTIES OF THE BANK

In addition to all other rights (including setoff) and duties of the Bank under the Loan Documents which are expressly incorporated herein as a part of this Mortgage, the following provisions will also apply:

3.1 **Bank Authorized to Perform for Mortgagor.** If the Mortgagor fails to perform any of the Mortgagor's duties or covenants set forth in this Mortgage, the Bank may perform the duties or cause them to be performed, including without limitation signing the Mortgagor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Mortgagor to the Bank from the date of expenditure by the Bank to date of payment by the Mortgagor, and will be one of the Obligations secured by this Mortgage. All acts by the Bank are hereby ratified and approved, and the Bank will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

## ARTICLE IV. DEFAULTS AND REMEDIES

The Bank may enforce its rights and remedies under this Mortgage upon default. A default will occur if the Mortgagor fails to comply with the terms of any Loan Documents or this Mortgage (including any guaranty by the Mortgagor) or defaults under the terms of any other mortgage affecting the Premises, or if any other obligor fails to comply with the terms of any loan documents for which the Mortgagor has given the Bank a guaranty secured by this Mortgage. Upon occurrence of a default, the Bank may declare the Obligations to be immediately due and payable.

4.1 **Cumulative Remedies; Waiver.** In addition to the remedies for default set forth in the Loan Documents, including acceleration, the Bank upon default will have all other rights and remedies for default available by law or equity including foreclosure of this Mortgage. The rights and remedies specified herein are cumulative and are not exclusive of any rights or remedies which the Bank would otherwise have. With respect to such rights and remedies:

a. **Receiver.** To the greatest extent that such rights may then be lawfully waived, upon the commencement or during the pendency of any action to foreclose this Mortgage, the Bank will be entitled, as a matter of right, without notice or demand and without giving bond or other security, and without regard to the solvency or insolvency of the Mortgagor or to the value of the Premises, to have a receiver appointed for all or any part of the Premises, which receiver will be authorized to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action, and until the confirmation of sale made under any judgment foreclosing this Mortgage, and to hold and apply such rents, issues and profits, when so collected, as the court will from time to time direct.

b. **Foreclosure/Suit.** The Mortgagor confers upon the Bank the authority and power to proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, and in addition authorizes the Bank to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple, as provided by law, and the Mortgagor to remain liable for any deficiency. Said sale may be as one tract or otherwise, at the sole option of the Bank. The Mortgagor agrees that, for the purpose of Section 580.08, Minnesota Statutes, the Mortgaged Property is a single tract.

c. **Power of Sale.** In the event of foreclosure, the Bank may sell the Premises at public sale and execute and deliver to the purchasers deeds of conveyance pursuant to statute.

d. **Waiver by the Bank.** The Bank may permit the Mortgagor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Bank may waive any default without waiving any other subsequent or prior default by the Mortgagor. Furthermore, delay on the part of the Bank in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless

the Bank has expressly agreed in writing specifying such waiver or suspension.

e. **Uniform Commercial Code.** The Bank shall have all of the rights and remedies provided under the Minnesota Uniform Commercial Code.

## ARTICLE V. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Mortgage, the following provisions will also apply:

5.1 **Term of Mortgage.** The Bank's rights under this Mortgage will continue until the Bank's commitment to lend has been terminated or expired, and until all Obligations have been paid in full and performed.

5.2 **Time of the Essence.** Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Mortgagor and the payment of taxes, assessments, and similar charges and insurance premiums.

5.3 **Subrogation.** The Bank will be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the Note.

5.4 **Choice of Law.** Foreclosure of this Mortgage will be governed by the laws of the state in which the Land is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

5.5 **Severability.** Invalidity or unenforceability of any provision of this Mortgage shall not affect the validity or enforceability of any other provision.

5.6 **Entire Agreement.** This Mortgage is intended by the Mortgagor and Bank as a final expression of this Mortgage and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Mortgage. No parol evidence of any nature shall be used to supplement or modify any terms.

5.7 **Joint Liability; Successors and Assigns.** If there is more than one Mortgagor, the liability of the Mortgagors will be joint and several, and the reference to "Mortgagor" shall be deemed to refer to all Mortgagors. The rights, options, powers and remedies granted in this Mortgage and the other Loan Documents shall extend to the Bank and to its successors and assigns, shall be binding upon the Mortgagor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

5.8 **Indemnification.** Except for harm arising from the Bank's willful misconduct, the Mortgagor hereby indemnifies and agrees to defend and hold the Bank harmless from any and all losses, costs, damages, claims and expenses of any kind suffered by or asserted against the Bank relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Mortgagor's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above). This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Mortgage and Obligations due the Bank.

5.9 **Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

5.10 **Riders.** The rider(s) attached hereto and recorded together with this Mortgage are hereby fully incorporated into this Mortgage.

[Check applicable box(es)] ☒ Construction Loan Rider ☐ Condominium Rider ☐ Second Mortgage Rider

☐ Other(s) (Specify) _____

**[SIGNATURE(S) ON NEXT PAGE]**

IN WITNESS WHEREOF, the undersigned has/have executed this MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS as of JUNE 14, 2005.

(Individual Mortgagor)

Mortgagor Name N/A

(Individual Mortgagor)

Mortgagor Name N/A

*NOTE: If individuals are married, both spouses must sign.*

NRB PROPERTIES, LLC
Mortgagor Name (Organization)

a MINNESOTA limited liability company

By _____ Chief Mgr

Name and Title RICHARD LINDMEIER JR, CHIEF MANAGER

By _____

Name and Title WARREN NIKODYM, MEMBER

(Mortgagor Address)

31819 COTTONWOOD RD
CUSHING, MN 56443

(Bank Address)

U.S. BANK N.A.
400 CITY CENTER
OSHKOSH, WI 54901

STATE OF Minnesota
COUNTY OF Stearns
} ss.

This instrument was acknowledged before me on June 14, 2005 (Date), by RICHARD LINDMEIER JR and WARREN NIKODYM (Name(s) of person(s)), as CHIEF MANAGER and MEMBER (Type of authority, if any, e.g., officer, trustee; if an individual, state "a married individual" or "a single individual") of NRB PROPERTIES, LLC (Name of entity on whose behalf the document was executed; use N/A if individual)

David Arthur Erickson

(Notarial Seal)

DAVID ARTHUR ERICKSON
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2010

Printed Name: David Arthur Erickson

Notary Public, State of: Minnesota

My commission expires: 1-31-10

This instrument was drafted by JEANNE SOLEIM (name)
on behalf of

After recording return to U.S. BANK N.A. (name)
COLLATERAL DEPARTMENT
P.O. BOX 3487, OSHKOSH, WI 54903-3487 (address)

**EXHIBIT A TO MORTGAGE**
**(Legal Description)**

3378408612

Mortgagor: NRB PROPERTIES, LLC

Bank: U.S. BANK N.A.

Legal Description of Land:

Lot 2, Block 1, Goodin, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.
Abstract Property

## EXHIBIT B TO MORTGAGE
## (Permitted Encumbrances)

3378408612

*Mortgagor:* NRB PROPERTIES, LLC

Bank: U.S. BANK N.A.

Permitted Encumbrances:

MORTGAGE/DEED OF TRUST TO U.S. BANK N.A. IN THE AMOUNT OF $568,000.00
DATED 10/31/02

3378408612

# CONSTRUCTION LOAN RIDER TO MORTGAGE

Mortgagor: NRB PROPERTIES, LLC

Bank: U.S. BANK N.A.

The following provisions are hereby made a part of the Mortgage to which this Rider is attached:

Cessation of Construction. The loan secured hereby was obtained to assist in financing building construction or remodeling, or land development, or other improvements to the Premises (as provided in the Construction Loan Agreement between Mortgagor and Bank of even date with the note evidencing such loan, which is made a part hereof by this reference, which no third party is entitled to rely upon) and: (a) If such construction, remodeling, development, or improvement shall not, in accordance with plans and specification approved by Bank, be completed prior to the expiration date established by Bank or (b) If work on the same shall cease before completion and remain abandoned for a period of thirty consecutive days; then the existence of either circumstance shall constitute an event of default under the terms of this instrument, and at any time thereafter, said note and the whole indebtedness secured hereby shall, at the option of the Bank and without notice to Mortgagor (such notice being hereby expressly waived), become due and collectible at once by foreclosure or otherwise. In the event of such cessation or abandonment of work as aforesaid, Bank may, at its option, also enter upon the Premises and complete such improvements and Mortgagor hereby gives to Bank full power and authority to make such entry and to enter into such contracts or arrangements as it may consider necessary to complete the same. All monies expended by Bank in connection with completion of said improvements shall be added to the indebtedness hereby secured and shall be payable by Mortgagor immediately and without demand, with interest at the default rate specified in the Note. Bank shall have the right to enter upon the Premises at any and all times to inspect the same.

Construction Mortgage. This Mortgage shall be deemed to be a construction mortgage, as that term is defined in the Uniform Commercial Code, as amended, securing an obligation incurred for the construction of an improvement on the Land, which may include the acquisition cost of the Land, and any notes issued in extension or renewal thereof or substitution therefor. If and to the extent that any of such actions could, under the laws of the state in which the Land is located, form the basis of or result in a security interest in or lien against the Land or any Improvements thereon having priority over this Mortgage, Mortgagor affirms, acknowledges and warrants that prior to the recordation of this Mortgage in the real property records of the county or counties where the Land is located, no contract will have been entered into nor will any improvements have been constructed upon the Land, nor will any material have been delivered to the Land in regard to the project for which the loan or loans evidenced by the Note have been made. It is understood and agreed that funds are to be advanced upon the Note in accordance with a Construction Loan Agreement made by and between the Mortgagor and the Bank of even date herewith, which said Construction Loan Agreement is incorporated herein by reference to the same extent and effect as if fully set forth herein and made a part of this Mortgage. This Mortgage secures the payment of all sums and the performance of all covenants required by Mortgagor by said Construction Loan Agreement, and on the failure of Mortgagor to keep and perform all the covenants, conditions and agreements of said Construction Loan Agreement, the principal sum and all interest and other charges provided for herein and secured hereby shall, at the option of the Bank, become due and payable, anything herein contained to the contrary notwithstanding.

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COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUENHOEFER

BY _____ DEPUTY

# CROSS ACCESS AND PARKING EASEMENT

THIS CROSS ACCESS AND PARKING EASEMENT AGREEMENT ("Agreement") is made as of this 29th day of June, 2005, by **WEST PATH, LLC**, a Minnesota limited liability company ("West Path").

## RECITALS

A. West Path is the owner of certain the real property located in Stearns County, Minnesota and legally described as Lots 1, 2 and 3, Block 1, West River Business Park Three, according to the plat thereof on file and of record in the office of the Stearns County Recorder, Stearns County, Minnesota..

B. West Path is desirous of creating cross access and parking easements over and across each one of the above-described lots for the benefit of the remaining lots.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, West Path, declares as follows:

1. Grant of Easement. West Path hereby establishes, declares, reserves and grants the use and benefits of Lots 1, 2 and 3, Block 1, West River Business Park Three, a nonexclusive easement as legally described on the attached Exhibit A (the "Easement") on , over, through, and across the curb cuts, drive lanes, parking areas and walkways that may be located on each one of the respective lots from time-to-time for permitting:

(a) The passage of vehicles and pedestrians; and

(b) The parking of vehicles.

Each lot has the right to use and to grant others the right to use its respective property and the curb cuts, drive lanes, parking areas and walkways now or hereafter located on its respective lots, for any and all purposes not inconsistent with the use of this Easement pursuant to the terms of this Easement Agreement. In addition to, and without limiting, the foregoing, each owner or owners of each lot, now or in the future, in their sole discretion, may relocate, reconfigure, remove, replace, and or improve any of the curb cuts, drive lanes, parking areas and

walkways now or hereafter located on its respective lot provided, however, that any such relocation, reconfiguration, removal, replacement or improvement does not:

(a) Materially, adversely impact the use of this Easement by the owners of the other lots or their permittees;

(b) Unreasonably inhibit access to the other lots.

2. Repairs and Maintenance. Each owner of the respective lots will be responsible for one-third (1/3) of the cost, expense, and maintenance of this Easement area. In performing the maintenance obligations hereunder, each owner of respective lots will take reasonable measures to minimize the resulting impact upon the use and enjoyment of the Easement by any other party.

3. Indemnity and Waiver. Each owner of a respective lot will indemnify, defend, and hold harmless the other owners from and against all losses, damages, cost, liabilities, expenses (including reasonable attorneys fees) or claims arising from the negligent or intentional acts or omissions of the indemnifying party and exercising the right and obligations set forth herein.

4. Easement Running With the Land. The Easement set forth herein will be binding upon and inure to the benefit of the owners of Lots 1, 2 and 3, Block 1, West River Business Park Three, and will run with the land and will be easements appurtenant to, or the benefit of, and run with the title to the lots and all ongoing and future use or enjoyment thereof. This Agreement will be recorded in the office of the Stearns County Recorder of Stearns County, Minnesota, and will serve as notice to and will be binding upon and inure to the benefit of the parties, including their successors through purchase at foreclosure sale or deed in lieu of foreclosure.

5. No Public Dedication. Nothing herein will be deemed to be a grant or dedication of any portion of the lots to or for the general public or for any public purposes whatsoever, it being the intention of the owners of the lots that this Agreement be strictly limited to the purposes expressed herein.

6. Future Condominiumization. It is anticipated that Lots 1, 2 and 3, Block 1, West River Business Park Three will be part of a condominium project in which a Common Interest Community Plat ("CIC Plat") and Declaration will be recorded. This Easement Agreement and the maintenance requirements hereunder will be subject to that CIC Plat and the Declaration upon recording of the CIC Plat and Declaration.

7. Diagram. Attached hereto as Exhibit B is a diagram depicting the Easements.

IN WITNESS WHEREOF, this Cross Access and Parking Easement is executed as of the day and year first above written.

**WEST PATH, LLC,**
a Minnesota limited liability company

By Preston Everle
Its Chief Manager

STATE OF MINNESOTA )
) ss.
COUNTY OF Stearns )

The foregoing instrument was acknowledged before me this 28 day of June, 2005, by Preston Everle, the Chief Manager of WEST PATH, LLC., a Minnesota limited liability company, on behalf of the company.

ROBERT J. WALTER
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

Notary Public

The undersigned, Falcon National Bank, mortgagee of the above-described property, hereby consents to this Cross Access and Parking Easement.

FALCON NATIONAL BANK

By
Its Senior Lender

**THIS INSTRUMENT WAS DRAFTED BY:**

Gray, Plant, Mooty, Mooty & Bennett, P.A.
Robert J. Walter
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
Telephone: (320) 252-4414

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STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

On this 29th day of June, 2005, before me a Notary Public within and for said County, personally appeared Jessica Bitz, to me known, who being by me duly sworn, did say that he/she is the Senior Lender of FALCON NATIONAL BANK, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said person acknowledged said instrument to be the free act and deed of said corporation.

MELISSA S. CHRISTENSEN
Notary Public-Minnesota
My Commission Expires Jan 31, 2010

Melissa S. Christensen
Notary Public

SCR 4 of 8

**EXHIBIT A**
**to**
**CROSS ACCESS AND PARKING EASEMENT**

**(Legal Descriptions)**

**EASEMENT NO. 1**

A 60 foot wide ingress and egress easement over and across those parts of Lots 1 and 2, Block 1, West River Business Park Plat Three, according to the recorded plat thereof, on file and of record in the office of the County recorder, Stearns County, Minnesota. The centerline of said easement is described as follows:

Beginning at the most northwest corner of said Lot 1, thence South 18 degrees 03 minutes 57 seconds West, on an assumed bearing along the northwesterly line of said Lot 1, a distance of 222.48 feet, to the Southwesterly corner of said Lot 1 and there terminating.

The side lines of said easement shall be prolonged or shortened to terminate on the northerly and southerly lines of said Lot 1 and 2.

**EASEMENT NO. 2**

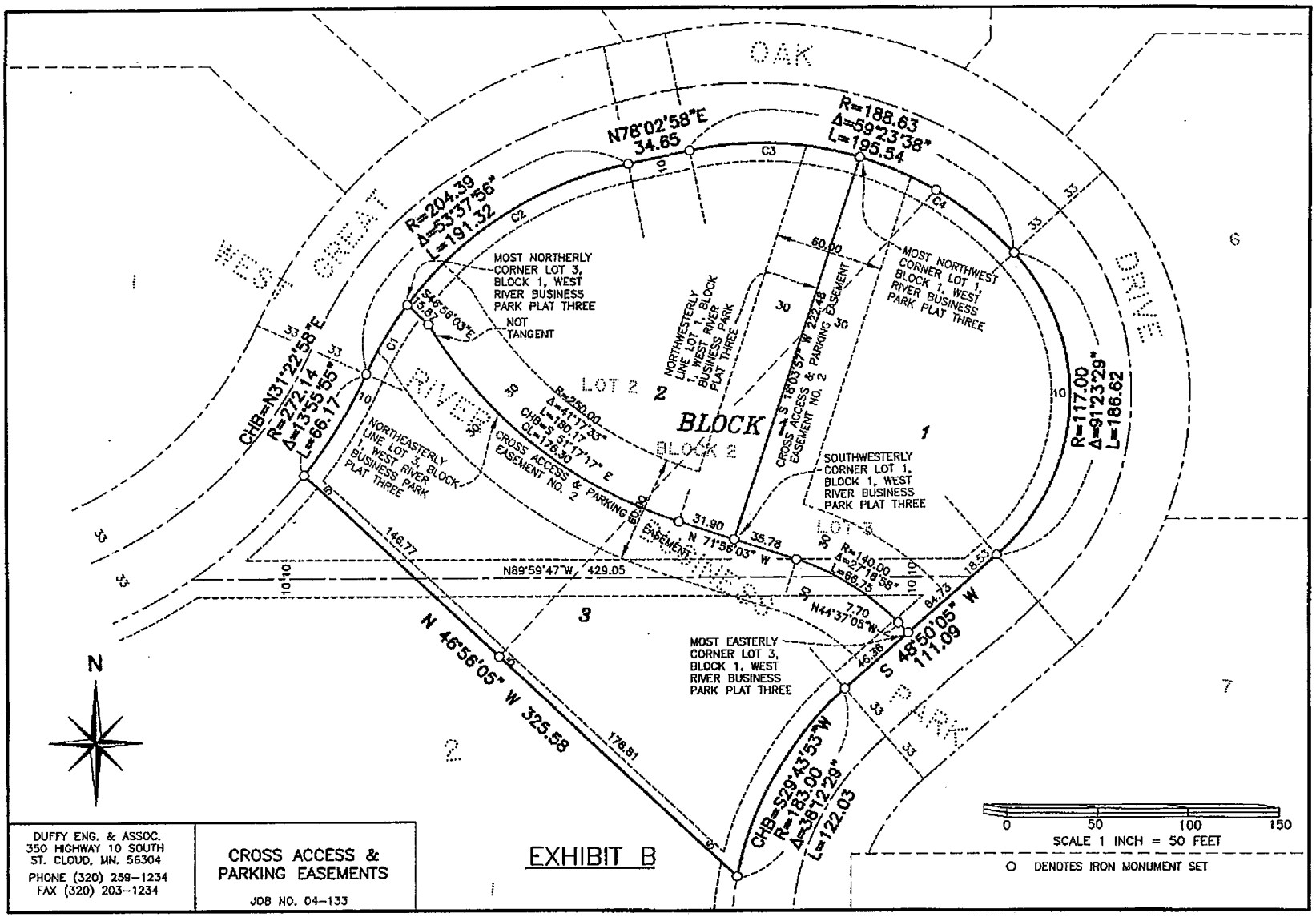
A 60 foot wide ingress and egress easement over and across those parts of Lots 1, 2 and 3, Block 1, West River Business Park Plat Three, according to the recorded plat thereof, on file and of record in the office of the County recorder, Stearns County, Minnesota. The centerline of said easement is described as follows:

Beginning at the most easterly corner of said Lot 3, thence North 44 degrees 37 minutes 05 seconds West, on an assumed bearing along the northeasterly line of said Lot 3, a distance of 7.70 feet, thence 66.75 feet northwesterly, along a tangential curve, concave to the southwest, having a radius of 140.00 feet and a central angle of 27 degrees 18 minutes 58 seconds; thence North 71 degrees 56 minutes 03 seconds West, tangent to said curve, a distance of 67.68 feet; thence 180.17 feet northwesterly, along a tangential curve, concave to the northeast, having a radius of 250.00 feet and a central angle of 41 degrees 17 minutes 33 seconds; thence North 46 degrees 56 minutes 03 seconds West, not tangent to said curve, a distance of 15.87 feet, to the most northerly corner of said Lot 3 and there terminating.

The side lines of said easement shall be prolonged or shortened to terminate on the southeasterly lines of said Lots 1 and 3 and the northwesterly lines of Lots 2 and 3.

**EXHIBIT B**
**to**
**CROSS ACCESS AND PARKING EASEMENT**

**(Diagram of Cross Easement)**




DUFFY ENG. & ASSOC.
350 HIGHWAY 10 SOUTH
ST. CLOUD, MN. 56304
PHONE (320) 259-1234
FAX (320) 203-1234

CROSS ACCESS & PARKING EASEMENTS

JOB NO. 04-133

EXHIBIT B

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OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1163067

Certified, Filed, and/or Recorded on

08-02-2005 at 04:05 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

**COMMON INTEREST COMMUNITY NUMBER 72**
**A CONDOMINIUM**
**WEST RIVER BUSINESS PARK CONDOMINIUMS**
**DECLARATION**

THIS DECLARATION is made this 2nd day of August, 2005, by WEST RIVER BUSINESS PARK PARTNERSHIP, LLP, a Minnesota Limited Liability Partnership (hereinafter referred to as "Declarant"), and by Bremer Bank, National Association, a United States Corporation, (hereinafter referred to as "Mortgagee") pursuant to the provisions of the Minnesota Common Interest Ownership Act, Minnesota Statutes Sections 515B.1-101 to 515B.4-118 as amended (hereinafter referred to as the "Act").

WHEREAS, the Declarant is the fee simple owner of that certain real estate situated in Stearns County, Minnesota, legally described as:

**Lot 7, Block 1, WEST RIVER BUSINESS PARK, a duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.**

(hereinafter referred to as the "Real Estate"); and

WHEREAS, the Real Estate is improved with and includes one (1) building containing seven (7) non-residential Units and other facilities.

WHEREAS, Mortgagee is the holder of the Mortgagee's interest in that certain mortgage covering the Real Estate and filed for record as Document Number 1008129 in the office of the County Recorder in and for Stearns County, Minnesota; and

NOW, THEREFORE, in order to establish the Real Estate as a Condominium pursuant to the Act, Declarant and Mortgagee hereby declare that the Real Estate is subject to the covenants, restrictions, terms and conditions hereinafter set forth in this Declaration, which shall constitute covenants running with the Real Estate and shall be binding on Declarant and Mortgagee, their successors and assigns, and on all subsequent holders of any right, title or interest in or to all or any part of the Real Estate, their grantees, successors, heirs, personal representatives, devisees and assigns;

1. General. The Common Interest Community created hereby pursuant to the Act is a Condominium, and it is not currently subject to a Master Association. The name and number of the Condominium, the County in which the Condominium is situated, and the legal description of the Real Estate included in the Condominium are as hereinabove set forth. The Association (as hereinafter defined) has been incorporated under Chapter 317A of Minnesota Statutes. Declarant has incorporated West River Business Park Condominium Owners Association, Inc., (referred herein as "Association"), under the laws of the State of Minnesota as a non-profit corporation for the purpose of acting as the Association with the duty and power of maintaining, administering and enforcing the



√ file in office

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covenants and restrictions, and collecting and enforcing the assessments and charges hereinafter created and imposed.

2. Condominium Units. There are seven separate Units located in one building as shown on the Common Interest Community Plat (hereinafter referred to as the "CIC Plat") certified by Duffy Engineering & Associates, Inc., 350 Highway 10 South, Suite 101, St. Cloud, Minnesota 56304, Registered Land Surveyor, Minnesota Registration No. 23044, as accurately depicting all the information required by Section 515B.2-110(c) of the Act, which CIC Plat is a part hereof. The identifying number, location and boundaries of each of the seven (7) Units established hereby are set forth in Exhibit A attached hereto and/or in the CIC Plat. The boundaries of each Unit shall be the interior unfinished surface of the walls, floors and ceilings thereof depicted as boundaries in the CIC Plat. Accordingly, all lath, furring, wallboard, plasterboard, and plaster constituting a part of the wall shall be deemed to be outside of the Unit and any paneling, tiles, wallpaper, paint, carpeting, linoleum or other wall or floor coverings or finishings shall be deemed to be included within the Unit. The entry area depicted on the CIC Plat shall be considered part of the Unit. All doors and windows located in the parametrical walls of a Unit shall be deemed to be part of that Unit.

Each of the seven Units is hereby allocated one vote in the Association. The percentages of undivided interests in the Common Elements and of the Common Expenses of the Association allocated to each Unit on such basis is the Percentage Interest set forth opposite each such Unit in Exhibit A attached hereto.

3. Common Elements; Limited Common Elements. All portions of the Real Estate other than the Units are Common Elements. Certain portions of the Common Elements designed to serve a single Unit are, by operation of Section 515B.2-102(d) and (f) of the Act, Limited Common Elements allocated for the exclusive use by the respective Unit served thereby to the exclusion of other Units. The heating, ventilating, air conditioning equipment (HVAC) serving each Unit (including rooftop Units) are Limited Common Elements allocated for the exclusive use of such Unit. The HVAC equipment which is a Limited Common Element shall be maintained, repaired and replaced by the Owner of such Unit allocated to that Owner's sole use and benefit, but may be subject to a master maintenance agreement held and managed by the Association. The ceiling-hung gas fire heaters, as depicted on the CIC Plat, are Limited Common Elements to be maintained, repaired and replaced by the Owner of such Unit as that heater serves. Notwithstanding the foregoing, the Association by the Rules and Regulations may agree to maintain any equipment or area in the Limited Common Elements or Unit. The Association may assess the cost of such maintenance as a Common Expense, or as a Limited Allocation Assessment to the individual Unit.

An allocation of Limited Common Elements established pursuant to this Declaration may be changed as hereinafter provided. The reallocation shall be accomplished by an amendment to this Declaration executed by the Owners between or among whose Units the reallocation is made and the Association. The Unit Owners required to execute the Amendment shall submit to the Association an application, including a proposed Amendment, for approval as to form and compliance with this Declaration and the Act. The Association, through its Board of Directors, shall have the right to establish fair and reasonable procedures and timeframes for the submission and processing of the applications, and shall maintain records thereof. If approved, the Unit Owners executing the Amendment shall promptly record the Amendment and deliver a copy of the recorded Amendment to the Association. The Association may require the Unit Owners executing the Amendment to pay all fees and costs for reviewing, preparing, and recording the Amendment and any amended CIC Plat.

**THE COMMON ELEMENTS ARE OWNED BY THE ASSOCIATION FOR THE BENEFIT OF THE UNIT OWNERS, AND ARE HEREBY GRANTED AND CONVEYED TO THE ASSOCIATION WITHOUT THE NEED FOR ANY OTHER ACT BY OR INSTRUMENT FROM THE DECLARANT.**

4. Association Membership: Rights and Obligations. Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

A. General. Each Owner shall be a member of the Association by virtue of it's ownership of a Unit, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership

terminates. When more than one Person or entity is an Owner of a Unit, all such Persons or entities shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit.

B. Voting and Common Expenses. Voting rights are allocated equally among the Units, subject to this Declaration. Common Expenses are allocated to each Unit on such basis as the Percentage Interest, as set forth opposite each such Unit in Exhibit A attached hereto.

C. Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately.

D. Authority to Vote. The Owner, or some other natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in the Bylaws.

5. Administration. The administration and operation of the Association and the Real Estate, including but not limited to the acts required by the Association, shall be governed by the following provisions:

A. General. The operation and administration of the Association and the Real Estate, shall be governed by the Declaration, By-Laws, the Rules and Regulations and the Act ("Governing Documents"). The Association shall, subject to the rights of the Owners set forth in the Governing Documents, be responsible for the operation, management and control of the Real Estate. The Association shall have all powers described in the Governing Documents and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents. All references to the Association means the Association acting through the Board unless specifically stated to the contrary.

B. Operational Purposes. The Association shall operate and manage the Real Estate for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents; (ii) maintaining, repairing and replacing those portions of the Real Estate for which it is responsible; and (iii) preserving the value and architectural uniformity and character of the Real Estate.

C. Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

D. By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

E. Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's Officers and Directors by the Governing Documents; provided, however, that such delegation shall not relieve the Officers and Directors of the ultimate responsibility for the performance of their duties.

F. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Real Estate; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents.

6. Assessments.

A. General. Assessments shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in this Section and the requirements of the By-Laws. Assessments shall include Annual Assessments and may include Special Assessments and Limited Allocation Assessments. Assessments shall be allocated among the Units based on a square footage basis of that Unit as set forth on Exhibit A. Limited Allocation Assessments shall be allocated to the Units as set forth in that Section E.

B. Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth hereafter. Each Annual Assessment shall cover all of the anticipated Common Expenses of the Association for that year which are to be shared by all of the Units in proportion as set forth on Exhibit A. Annual Assessments shall be payable in equal monthly installments. Annual Assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

1. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the Common Interest Community.

2. After a Common Expense assessment is levied, the Annual Assessment may be subsequently increased or decreased by the Board, subject to limitations contained herein.

3. Until the termination of the period of Declarant control, and except for the variations authorized herein and premiums on insurance carried by the Association, Real Estate taxes paid by the Association, the increase in the Annual Assessment for any year shall not exceed the greater of (i) five percent (5%) of the total Annual Assessment for the Association's previous fiscal year or (ii) the percentage increase in the National Bureau of Labor Statistics Consumer Price Index for the Minnesota Twin City Metropolitan Area (or comparable index if not available) for the most recent available year, multiplied by the total Annual Assessment for the Association's previous fiscal year. Notwithstanding the foregoing, a larger increase in the Annual Assessment will occur where it is approved by the vote of sixty-seven percent (67%) of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting. The foregoing restriction shall apply only during the period of Declarant Control of the Association.

C. Special Assessments. In addition to Annual Assessments, and subject to the limitations set forth herein, the Board may levy in any Assessment year a Special Assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any unforeseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement and (iii) the maintenance, repair or replacement of any part of the Real Estate, and any fixtures or other property related thereto. Notwithstanding the foregoing, any Special Assessment shall be subject to approval by the vote of sixty-seven percent (67%) of the Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting.

D. Working Capital Fund. There shall be established a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the Association's beginning years of operation. The Board shall include in each subsequent annual budget a reasonable amount of working capital, based upon the anticipated needs of the Association for the year in question. The funds shall be deposited into the Association's account, and Declarant may not use the funds to defray any of its expenses, reserve contributions, or

construction costs, or to make up any budget deficit while Declarant is in control of the Association. However, upon closing of a previously unsold Unit, Declarant may reimburse itself from funds collected at the closing for funds which it contributed to the Working Capital Fund with respect to that Unit.

E. Limited Allocation Assessments. In addition to Annual Assessments and Special Assessments, the Board may, at its discretion, levy and allocate Limited Allocation Assessments among only certain Units in accordance with the following:

1. Any Assessment associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit.

2. Any Assessment or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit, as appropriate.

3. The costs of insurance may be assessed in proportion to value or risk of coverage per Unit, and the costs of utilities may be assessed in proportion to usage.

4. Reasonable attorneys fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.

5. Fees, charges, late charges, fines and interest may be assessed as provided in Sections 515B.3-115, 515B.3-116, and 515B.3-117 of the Act.

6. Assessments levied under Sections 515B.3-115 and 515B.3-116 of the Act to pay a judgment against the Association may be levied against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.

7. If any damage to the Common Elements, Limited Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, their guests or their invitees, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.

8. If any installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.

9. If Common Expense liabilities are reallocated for any purpose authorized by the Act, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

10. Assessments under Section 6E shall not be considered Special Assessments as described in Section 6C, and may, at the Board's discretion, be assessed as part of, or in addition to, the Assessments levied under Section 6.

F. Liability of Owners for Assessments. The obligation of an Owner to pay Assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board, subject to the Alternative

Assessment Program described in Section 6G. The Owner at the time an Assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Real Estate, by absence from or abandonment of the Unit, by the waiver of any rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth herein, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

G. Declarant's Alternative Assessment Program. The following Alternative Assessment program is established pursuant to Section 515B.3-115(a)(2) of the Act. Notwithstanding anything to the contrary in this Section 6, if a Common Expense has been levied, any unsold Unit owned by Declarant shall be assessed at the rate of twenty-five percent (25 %) of the Assessment levied on other Units of the same type until a certificate of occupancy has been issued with respect to such Unit by the municipality in which the Unit is located. This reduced assessment shall apply to each Unit owned by Declarant at the time that the Unit is created, and shall continue until the issuance of the certificate of occupancy as previously described. The Declarant's authority to commence the Alternative Assessment Program will end upon the expiration of the period of Declarant's control of the Association, as provided in Section 515B.3-103 of the Act and as set forth in this Declaration. Although this Alternative Assessment Program will not affect the allocated share of replacement reserves attributable to Units owned by Declarant, there are no assurances that this Alternative Assessment Program will have no effect on the level of services for items set forth in the Association's budget.

H. Assessment Lien. The Association has a lien on a Unit for any Assessment levied against that Unit from the time the Assessment becomes due. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, lines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as Assessments, under this Section 6. The release of the lien shall not release the Owner from personal liability unless agreed to in writing by the Association.

**RECORDING OF THIS DECLARATION CONSTITUTES RECORD NOTICE AND PERFECTION OF ANY LIEN UNDER THIS SECTION 6, AND NO FURTHER RECORDATION OF ANY NOTICE OF OR CLAIM FOR THE LIEN IS REQUIRED.**

I. Foreclosure of Lien; Remedies. A lien for Assessments may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any Assessment or charge against the Unit.

J. Lien Priority; Foreclosure. A lien under this Section 6 is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before this Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a Unit recorded on or after the date of the recording of the Declaration is foreclosed and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes, Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first

mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Section 515B.3-115 of the Act which became due, without acceleration, during the six (6) months immediately preceding the first day following the end of the Owner's period of redemption.

K. Voluntary Conveyances; Statement of Assessments. In a voluntary conveyance of a Unit the purchaser shall not be personally liable for any unpaid Assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the purchaser, unless expressly assumed by the purchaser. However, the lien of such Assessments shall remain against the Unit until satisfied or released, and may be foreclosed or otherwise enforced. Any seller or purchaser shall be entitled to a statement in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Unit, including all Assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and purchaser.

7. Use of the Condominium. All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in a Unit or Real Estate, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of a Unit or Real Estate shall be subject to the following restrictions:

A. General. A Unit or Real Estate shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Real Estate, and shall run with the property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring, owning or leasing an interest in a Unit or Real Estate, their heirs, personal representatives, successors and assigns.

B. Non-Residential Use. The Units shall be used by Owners, Occupants and their guests and invitees exclusively for commercial, business, professional or other non-residential purposes. No changes in the use of the Real Estate or Units shall be made without prior receipt of all appropriate governmental approvals.

C. Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements, which is contrary to state, local and federal law or which may be in violation of any subdivision or zoning law or code.

D. Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit may be subleased, (ii) that all leases shall be in writing, (iii) no Unit shall be leased for transient or hotel purposes, and (iv) that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section. No lease shall be for less than the entire Unit, unless approved of by the Board.

E. Parking. Parking areas on the Real Estate shall be used for parking of vehicles owned or leased by Owners, Occupants, and their guests and invitees, and such other incidental uses as may be authorized in writing by the Association. The use of driveways and other parking areas on the Real Estate, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

F. Animals. No animal may be bred, or kept or maintained for business or commercial purposes, anywhere on the Real Estate. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

G. Quiet Enjoyment; Interference Prohibited. All Owners, Occupants and their guests and invitees shall have a right of quiet enjoyment in their respective Units, and shall use the Real Estate in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Real Estate by other Owners, Occupants, and their guests and invitees.

H. Compliance with Law. No use shall be made of the Real Estate or Units which would violate any then existing municipal codes or ordinances or state or federal laws, nor shall any act or use be permitted which could cause waste to the Real Estate or Unit, cause a material increase in insurance rates on the Real Estate or Unit, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner, Occupant, guest, or invitee.

I. Alterations. Except for those made by Declarant in consideration of its initial sale of a Unit, no alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner, Occupant, or their guests or invitees, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or which is visible from the exterior of the Unit, without the prior written consent of the Board, or a committee appointed by it. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are satisfied.

J. Time Share Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

K. Easements for Encroachments. If, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Condominium, any portion of the Common Elements encroaches upon a Unit or Units or any portion of a Unit encroaches upon the Common Elements or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for the purposes of marketability of title. In the event the Real Estate is partially or totally destroyed, and then rebuilt, the Unit Owners shall permit minor encroachment of parts of the Common Elements, and of other Units, due to reconstruction, and a valid easement for said encroachments and the maintenance thereof shall exist.

L. Access Easements. Each Unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across the Common Elements as shown on the Plat, subject to any restrictions set forth in this Declaration.

M. Use and Enjoyment Easements. Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, subject to any restrictions authorized by this Declaration.

N. Benefit of Easements. All easements benefiting a Unit shall benefit the Owners and Occupants of the Unit, and their invitees and guests. However, an Owner who has delegated the right to occupy the Unit to an Occupant or Occupants, whether by lease or otherwise, does not have the use and other easements rights in the Property during such delegated occupancy, except as a guest of an Owner or in connection with the inspection of the Unit or recovery of possession of the Unit from the Occupant pursuant to law.

O. Personal Property for Common Use. The Association may acquire and hold for the use of all the Members tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in such property shall not be transferable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Member may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Members. The Association shall have the authority to impose reasonable rules, regulations and charges upon the use of such property.

P. Emergency Access to Units. In case of emergency, all Units and Limited Common Elements are subject to an easement for access, without notice and at any time, by an officer or member of the Board, by the Association's management agents or by any public safety personnel. The Board may require that an Owner or Occupant leave the keys to the Unit with another owner of his or her choice or agent of the Board, and to advise the manager or Board of the locations of the keys, so as to allow access for emergencies when the Owner or Occupant is absent for extended periods.

Q. Rules. Each Unit Owner, occupant, tenant, guest, or invitee shall use the Units and the Common Elements only in compliance with the provisions of the Act, this Declaration, the Articles and the Bylaws of the Association, all as lawfully amended from time to time, and with all decisions, resolutions and rules promulgated by the Board of Directors. Failure to comply with any such provisions, rules, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief, or both. Additionally, in the event of any such failure to comply, the Association may levy and collect reasonable fines in accordance with the provisions of the Act.

R. Prohibited Activities. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Real Estate, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board of Directors cause unreasonable noise or disturbance to others. No Owners, visitors, guests or invitees may park in areas not specifically designated for parking on the CIC Plat or in this Declaration.

S. Unit Exterior. No Owner shall paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Board of Directors who, in its discretion, may deny. No Owner of a Unit, shall display, hang, store or use any sign outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit without the prior written permission of the Board of Directors and such signage shall be in conformance with the Rules and Regulations and any Governmental rule or regulation.

T. Trash. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in the Rules and Regulations promulgated by the Board of Directors. At its option, the Association may contract with a single provider for the removal and disposal of garbage, trash and other solid waste from all Units in accordance with this Declaration. Each Unit Owner shall be obligated to purchase such services from the provider designated by the Association upon the terms, conditions and rates negotiated by the Association. Any charges imposed by the provider designated by the Association shall be paid by the Association and shall be a Common Expense. In the event that any Unit Owner requests any services not included within the basic/general charges of the provider, the Association may assess all costs incurred for such additional services against that Unit Owner's Unit. Outside storage of any items, including but without limitation, equipment, trash and garbage containers shall not be allowed. Trash and garbage may be kept outside only in approved outside storage areas. Outside storage is subject to Governmental rules and regulations.

U. Storage of Personal Property. Except as provided in this Declaration or as permitted by the Rules and Regulations adopted from time to time by the Board of Directors in its sole discretion, no personal property of any kind whatsoever belonging to any Owner or to any tenant of such Owner or any guest or invitee of any Owner shall be stored, placed or kept, temporarily or permanently, in or on the Common Elements.

V. Machines. No Owner shall overload the electrical wiring in the Condominium or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others.

W. Rules and Regulations. The Board of Directors may, from time to time, promulgate rules and regulations regarding the use of the Units and the Common Elements, provided that such rules and regulations shall be reasonable in scope and shall tend to promote the use of the Real Estate for the purposes set forth herein.

X. Parking. Parking areas in the Common Elements shall be designated for guests, invitees, visitors, employees and owners of the Condominium, but certain areas may be restricted as to who may park by the Rules and Regulations.

Y. Right to Relocate Boundaries and Alter Units by Owner. Units may be altered and Unit boundaries by the Owner may be relocated only in accordance with the following terms and conditions and subject to Section 515B.2-14 of the Act:

1. An Owner may make improvements or alterations of such Units or, may after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures therein in accordance with Section 515B.2-114 of the Act and this Section.

2. The boundaries between adjoining Units may be relocated in accordance with Section 515B.2-114 of the Act and this Section.

3. No additional Units may be created by the subdivision or conversion of a Unit (within the meaning of the Act), except by the Declarant.

4. The alteration, relocation of boundaries or other modification of Units or other structures located therein (collectively referred to herein as "Alteration" or "Alterations") pursuant to this Section, and the Act may be accomplished only in accordance with the following conditions:

(a) No Unit may be altered if it would no longer be usable for its intended purpose or would violate any law, code or ordinance of any governmental authority having jurisdiction over the Property.

(b) No Alteration may be made which adversely affects the structural or functional integrity of any building system or the structural support or weather-tight integrity of any portion of any building or other structure.

(c) The prior written consent of the Association shall be required for any Alteration except Alteration made by the Declarant in which no consent from the Association is required. Where required, such consent shall be requested in writing by each Owner whose Unit is proposed to be altered, accompanied by such explanation, drawings and specifications relating to the proposed Alterations as may be reasonably required by the Association or the Eligible Mortgagee of the Unit. The Association shall give such Owners notice in an expeditious manner, granting, denying or qualifying its consent.

(d) As a precondition to consenting to Alterations, the Association may require, among other things, the following: (i) that all Alterations will be done in a workmanlike manner and without impairing the structural, mechanical or weather-tight integrity of the Unit; (ii) that the Common Elements and altered Units will be repaired and/or restored in the future as required by the Association; (iii) that the construction of the Alterations will not create dangerous conditions for any Owners or Occupants; (iv) that the Real Estate, the Eligible Mortgagees and the Owners and Occupants will be protected from liens and other liability arising from the Alterations; and (v) that the Alterations will be done in compliance with the applicable laws, regulations and ordinances of the governmental authorities having jurisdiction over the Real Estate.

(e) The Association may require that the Owners of the Units to be altered pay all costs of processing or documentation for the request and the preparation and recording of any necessary amendment to the Governing Documents, including without limitation such costs as filing, architects and attorneys fees incurred by the Association in connection with the Alterations.

Z. Additional Restrictions.

1. The Real Estate and Units are subject to the terms and conditions of a Declaration of Covenants and Restrictions, dated September 11, 1997, and recorded January 23, 1998, as document number 863401 restricting the use of the Real Estate and Units by prohibiting the Real Estate and Units from a gas station/convenience store being maintained or operated thereon for a period of twenty-five (25) years from the date of recording of the covenant.

2. The Real Estate and Units are subject to the terms and conditions of an Easement and Declaration of Restrictions and Covenants, dated May 6, 1997, and recorded May 16, 1997, as document number 845329, which was modified by a Modification of Easement and Declaration of Restrictions and Covenants, dated December 21, 2001, and recorded January 18, 2002, as document number 996097 restricting the use of the Real Estate and Units. The Real Estate and Units are limited to commercial and industrial use. The following uses are not allowed: daycare centers; any form of educational facility; churches; social centers; hospitals; elder care facilities; nursing homes; recreational; single-family or multiple family dwellings. The modification allows a specific exemption for a charter school in accordance with a more specific description set out in that document. There are specific excavation and soils use requirements and restrictions contained in that declaration.

8. Maintenance and Repair.

A. Every Unit Owner shall perform promptly all maintenance and repair work required within such Owner's own Unit and which, if not performed, would affect the Common Elements or another Unit or Units. Upon the failure of any Unit Owner to perform such Owner's responsibilities under this paragraph, the Association may, but shall not be obligated to, perform the same and such Unit Owner shall be liable to the Association for all expenses incurred by the Association in performing the same and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense Assessments. All incidental damage or liability caused to a Unit or Units or to the Common Elements by the failure of a Unit Owner to perform such Owner's obligations under this paragraph or caused in the course of performing such obligations shall be the responsibility of the Unit Owner.

B. If maintenance, repairs or replacements to the Common Elements or to the Unit of another Unit Owner are necessitated by the negligence, willful act, misuse or neglect of a Unit Owner or of anyone for whose negligence, willful act, misuse or neglect such Unit Owner is responsible, the expense thereof shall be charged to such offending or responsible Unit Owner, and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense assessments.

C. The Association is responsible for maintenance, repair, and replacement of the Common Elements including that part of the Limited Common Elements as may be agreed to by the Association. Except as provided in paragraph 8.B. above, any Common Expense associated with the maintenance, repair or replacement of a Common Element or Limited Common Element (as may be agreed to by the Association), shall be assessed against all the Units in accordance with the Common Expense liability allocated to each Unit hereunder and shall not be assessed solely against the Unit or Units to which such Limited Common Element is assigned. Notwithstanding the foregoing, the Association by Rules and Regulations may agree to maintain elements in the Limited Common Element and any related equipment located in the Unit. The Association may assess the cost of such maintenance as a Common Expense or as a Limited Allocation Assessment to the individual Unit. The Association shall have an easement for access and entry upon reasonable advance notice into and through any Unit where such access or entry is necessary for the Association to perform its maintenance, repair and replacement obligations.

The Association may contract with a professional property management company and the cost will be a Common Expense.

**THE ASSOCIATION SHALL NOT BE LIABLE TO THE OWNER OR ANY THIRD PARTY GUESTS OR INVITEES FOR IMPROPER OR INADEQUATE SNOW REMOVAL. THE OWNER WILL RELEASE, DEFEND AND INDEMNIFY THE ASSOCIATION AND HOLD THE ASSOCIATION HARMLESS FROM ALL CLAIMS.**

D. All incidental damage caused to any Unit as a result of any work done by the Association in accordance with its responsibilities as set forth herein or in the Act or as a result of any damage to, failure of or malfunction of anything to be maintained, repaired or replaced by the Association in accordance with the provisions hereof or in the Act, shall be the responsibility of the Association and the cost of repairing such incidental damage shall be a Common Expense.

E. Notwithstanding the foregoing, the Association may agree to be responsible for more or less of the maintenance, repair and replacement in the Common Elements, Limited Common Elements, and Units. The Association may charge and access individual Units for the expense and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense Assessments.

F. Each wall built as part of the original construction of the Units and located on the boundary line between Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto, including:

1. The Owners of the Units which share the party wall shall be responsible for the maintenance repair and replacement of party wall in proportion with their use; provided (i) that any, maintenance, repair or replacement necessary, due to the acts or omissions of a certain Owner or Occupant sharing such party wall shall be paid for by such Owner, (ii) that the Association may contract for and supervise the repair of damage caused by an Owner or Occupant, and unless the Owners for their respective shares of the cost to the extent not covered by insurance.

2. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has use of the wall may, with the consent of the Association, restore it, and the other Owner shall promptly reimburse the Owner who restored the wall for it's share of the cost of restoration thereof; provided, however, that the cost of restoration resulting from destruction or other casualty resulting from the acts or omissions of certain Owners shall be the financial responsibility of such Owners, and the Association may assess the responsible Owners for their share of the costs,

without prejudice to the right of an Owner to recover a larger contribution from the other Owner. Insurance claims shall be made promptly following any casualty.

3. Notwithstanding any other provision of this Section, any Owner who, by it's negligence or willful act, causes a party wall to be exposed to the elements shall bear the whole cost of the repairs necessary for protection against such elements.

4. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Unit and shall pass to such Owner's assigns and successors in title.

5. In the event of any disputes arising concerning a party wall, and if the same is not resolved within thirty (30) days of the event causing the dispute, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association, upon the written demand of the Association or any Owner whose Unit shares the party wall. Each party agrees that the decision of the arbitrators shall be final and conclusive of the questions involved. The fees of the arbitrators shall be shared equally by the parties, but each party shall pay its own attorney fees or other costs to prove its case.

9. Required Insurance. Commencing not later than the time of the first conveyance of a Unit to a Unit Owner other than Declarant, and in addition to the requirements of the Act, the Association shall maintain, to the extent reasonably available, the following insurance: (a) fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage, debris removal, cost of demolition, malicious mischief, windstorm, water damage and all other perils which are customarily covered with respect to projects similar to the Real Estate in construction, location and use, including all other perils normally covered by the standard "all risk" endorsement, if such is available). Such insurance shall insure all personal property belonging to the Association and all structures, fixtures, buildings and other improvements included in the Real Estate subject to this Declaration (including all building service equipment and all of the Units and the fixtures installed therein as of the date hereof, and specifically including, without limiting the generality of the foregoing, interior walls, interior doors, electrical and plumbing conduits, pipes and fixtures installed therein as of the date hereof, but not including carpeting, wallcoverings, furniture, furnishings, equipment, or personal property belonging to the Unit Owners and not including improvements, fixtures and other property supplied or installed by Unit Owners). Such insurance shall cover the interest of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors; (b) worker's compensation insurance and insurance covering legal liability arising out of lawsuits related to employment contracts of the Association; (c) comprehensive public liability insurance in such amounts (but not less than $2,000,000 for any one occurrence) and with such coverage as the Board of Directors shall from time to time determine, but at least covering events occurring anywhere on the Common Elements or arising out of or in connection with the existence, use, ownership, management, or maintenance of the Common Elements, and insuring each officer and member of the Board of Directors, the Association, the managing agent, and their respective employees, agents, and all persons acting as agents, and each Unit Owner and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner, or claims of one or more insured parties against other insured parties, and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an insured party, including a Unit Owner, for the negligent act of another insured party, including a Unit Owner, occupant or the Association (the Unit Owners shall be included as additional insureds only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements); (d) director's and officer's liability insurance in such amounts as the Board of Directors shall, from time to time, reasonably determine; and (e) such other insurance as the Board of Directors may determine. If reasonably available, the policy or policies of fire and extended coverage shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild and an inflation guard endorsement. The Board of Directors may from time to time designate an insurance trustee to receive proceeds.

The Association may, in the case of a claim for damage to a Unit or Units, (i) pay the deductible amount as a common expense, (ii) assess the deductible amount against the Units affected in any reasonable manner it may determine, or (iii) require the Unit Owners of the Units affected to pay the deductible amount directly.

If the insurance described herein is not reasonably available, the Association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

Insurance policies carried herein shall provide that: (i) each Unit Owner and secured party is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against any Unit Owner and against the Association and members of the Board of Directors; (iii) no act or omission by any Unit Owner or secured party, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and (iv) if at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy is primary insurance.

Any loss covered by the property insurance policy herein shall be adjusted by and with the Association. The insurance proceeds for that loss shall be payable to the Association, or to an insurance trustee designated by the Association for that purpose. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and their mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements and Units. Unit Owners and mortgagees are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Condominium is terminated.

An insurer that has issued an insurance policy pursuant to this paragraph shall issue certificates or memoranda of insurance, upon request, to any Unit Owner or mortgagee. The insurance may not be canceled until 30 days after notice of the proposed cancellation has been mailed to the Association, each Unit Owner and each mortgagee to whom certificates of insurance have been issued.

Each Unit Owner shall maintain insurance for such Owner's own benefit insuring such Owner's personal liability, and such Owner's carpeting, wallcovering, fixtures, furniture, furnishings, equipment, personal property and improvements, fixtures and other property supplied or installed by such Owner or a previous Unit Owner or tenant; provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

In addition to the foregoing powers, and not in limitation thereof, the Board of Directors shall have the authority at all times without action by the Unit Owners to obtain and maintain in force any other coverages or endorsements which are required under the Act or which the Board of Directors deems necessary or desirable.

Insurance premiums for any blanket property insurance coverage and the other insurance coverages purchased by the Association shall be Common Expenses to be paid by assessments levied by the Association, and such assessments shall be held in an account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

10. Rights of First Mortgagees. The following provisions shall take precedence over all other provisions of this Declaration, and in the event of any inconsistency or contradiction, the following provisions shall control:

A. A first mortgagee of a Unit or its assigns, upon request, will be entitled to written notification from the Association of: (a) any default in the performance by the Unit Owner of any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days; (b) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or (c) any proposed action which, pursuant to this Declaration or the Act, requires the consent of a specified percentage of the first mortgagees of the Units.

B. In addition to statutory requirements for amendment of this Declaration and the Bylaws of the Association, unless at least sixty-seven percent (67%) (or such higher percentage as

is required by law or this Declaration) of the first mortgagees of the Units or their assigns (based upon one vote for each first mortgage owned), and of the Unit Owners (other than any sponsor, developer, or builder including the Declarant) of the Units have given their prior written approval, the Association shall not be entitled to:

1. By act or omission, seek to abandon, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed such a transfer).

2. Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium.

3. By act or omission seek to abandon or terminate the Condominium.

4. Add or amend any material provision of this Declaration or the Articles or Bylaws of the Association which establishes, provides for, governs or regulates any of the following:

a. Voting;

b. Increases in assessments for Common Expenses that raise the previously assessed amount by more than 25%, assessment liens or the priority or subordination of such liens;

c. Reserves for maintenance, repair and replacement of the Common Elements;

d. Insurance or Fidelity Bonds;

e. Rights to the use of the Common Elements;

f. Responsibility for maintenance and repair of the several portions of the Condominium;

g. The interests in the Common Elements or Limited Common Elements;

h. Convertibility of Units into Common Elements or of Common Elements into Units;

i. Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey such Owner's Unit;

j. Change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Elements. (The reallocation of undivided interests in and Common Expenses with respect to the Common Elements resulting from the exercise of Declarant's right to subdivide or convert a Unit hereof shall not be subject to the foregoing.)

k. Any provisions which are for the express benefit of the holders of first mortgages on the Units.

Any such addition or amendment shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Similarly, any addition or amendment to this Declaration, the Articles or the Bylaws of the Association which is made for the purpose of adding any one or more of the Units pursuant to paragraph 11 below shall not be considered material.

C. Any holder of a first mortgage on a Unit in the Condominium or such holder's designee will, upon request, be entitled to: (a) inspect the books, records and financial statements of the Condominium and current copies of this Declaration, the Bylaws of the Association and the rules and regulations of the Condominium, as the same may, from time to time, be amended or promulgated, during normal business hours; (b) receive an annual audited financial statement of the Condominium within 120 days following the end of any fiscal year of the Condominium; and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

D. Assessments for Common Expenses shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements that must be maintained, repaired or replaced on a periodic basis, and shall, when practicable, be payable in regular installments rather than by special assessments.

E. No provision of this Declaration or of the Bylaws of the Association shall be deemed to give a Unit Owner, or any other party, priority over any rights of first mortgagees of Units, or their successors in interest, pursuant to their mortgages in the case of a distribution to the Unit Owners of insurance proceeds or condemnation awards or settlements for losses to or a taking of Units and/or Common Elements. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the holder of any first mortgage on a Unit will be entitled to timely written notice of any such damage or destruction. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any first mortgage on a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition. Upon the request of the holder of a first mortgage on any Unit, the Association shall agree in writing to notify such holder, any entity servicing such mortgage, and/or any other entity having an interest in such mortgage whenever damage to the Unit covered by such mortgage exceeds $10,000.00 and whenever damage to the Common Elements exceeds $25,000.00.

F. The right of a Unit Owner to sell, transfer, or otherwise convey the Owner's Unit will not be subject to any right of first refusal or any similar restriction in favor of the Association.

G. If the owner of a first mortgage of record on a Unit or a purchaser at a mortgage foreclosure obtains title to, or comes into possession of, a Unit pursuant to the remedies provided in the mortgage or by foreclosure of the first mortgage or by deed or assignment in lieu thereof, such acquirer of title or possession and such acquirer's successors and assigns, shall acquire such title or possession free of any claims, and shall not be liable, for the share of the unpaid Common Expenses or assessments chargeable to such Unit which accrued prior to the acquisition of title or possession to such Unit by such acquirer. Such unpaid share of the Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer and such acquirer's successors and assigns.

11. Option to Add to Condominium.

Declarant shall have the option ("Option") without the consent or joinder of the Unit Owners, the Association, any holder of an interest as security for an obligation or any other person or entity, to add to the Condominium any one or more Units by subdivision or conversion of an existing Unit.

Such Option shall be subject to the terms and conditions hereinafter set forth:

A. Duration of Option. The Option will continue during the time of ownership by Declarant of the Unit or Units to be subdivided or converted.

B. Timing. The Unit or Units to be subdivided or converted may be made at different times.

C. Maximum Number of Units. The Declarant may subdivide one of the Units into two (2) Units, for a total of 8 Units for the Condominium. All of such Units will be restricted exclusively to non-residential use.

D. Units. Any Units that may be created which are added to the Condominium will be compatible with the Units originally constituting a part of the Condominium in terms of architectural style, structure type, quality of construction, principal materials employed in construction, and size.

E. Applicability of Restrictions. All restrictions in this Declaration affecting the use, occupancy, and alienation of Units will apply to Units created and added to the Condominium.

F. No Assurances. Nothing herein contained shall bind the Declarant to subdivide or to adhere to any particular plan of development or improvement for any Unit or Units. Declarant has reserved the right to subdivide or convert Units and add to the Condominium, but the Declarant is not obligated to do so.

G. Exercise of Option. Declarant may exercise its option to subdivide or convert a Unit by complying with the applicable notice requirements of the Act and by securing the execution and recording of one or more amendments or supplements to this Declaration. Such Amendment or Supplement shall allocate one vote in the Association to each Unit formed by the subdivision or conversion and shall reallocate undivided interests in the Common Elements and the percentages of the Common Expenses of the Association among the Units in proportion to their Percentage Interest set forth in the Exhibit A of such Amendment or Supplement. Contemporaneously with the filing of such Amendment or Supplement, the Declarant shall record supplemental CIC plats in accordance with the provision of the Act.

H. Assignment of Option. The Option described in this paragraph may be assigned by Declarant insofar as it affects any subdivision or conversion of a Unit or Units herein described.

12. Compliance and Remedies. Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property shall be governed by and comply with the provisions of the Act, the Declaration and By-Laws, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

A. Entitlement to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Declaration and By-Laws or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Declaration and By-Laws, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any Assessments payable to the Association, or take (or omit) other action in violation of the Declaration, By-Laws, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

B. Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants, and/or their guests, who violate the provisions of the Governing Documents, the Rules and Regulations or the Act:

1. Commence legal action for damages or equitable relief in any court of competent jurisdiction.

2. Impose late charges of up to the greater of twenty-five dollars ($25) or fifteen percent (15%) of the amount due for each past due Assessment or installment thereof, and interest at up to the highest rate permitted by law.

3. In the event of default of more than 30 days in the payment of any Assessment or installment thereof, all remaining installments of Assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent Assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. At least fourteen (14) days written notice of the effective date of the acceleration shall be given to the defaulting Owner.

4. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.

5. Suspend the rights of any Owner or Occupant and their guests or invitees to use any Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements appurtenant to the Unit, and those portions of the Common Elements providing utility services and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to 30 days thereafter, for each violation.

6. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant, or their guests or invitees in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

7. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests or invitees, or the safety or soundness of any Unit or other part of the Property or the property of the Owners, Occupants and/or their guests or invitees, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

8. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the State of Minnesota.

9. To take any action permitted by the Act.

C. Rights to Hearing. In the case of imposition of any of the remedies authorized herein, the Board of Directors shall, upon written request of the offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within

which to request a hearing. The hearing shall be scheduled by the Board of Directors and held within thirty (30) days of receipt of the hearing request by the Board of Directors, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to timely request a hearing or to appear at the hearing then the right to a hearing shall be waived and the Board of Directors may take such action as it deems appropriate. The decision of the Board of Directors and the rules for the conduct of hearings established by the Board of Directors shall be final and binding on all parties. The Board of Director's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing. A party may be represented in any hearing by legal counsel; however, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the Board of Directors except on grounds of self-incrimination, on other grounds deemed by the Board of Directors to be appropriate. In this connection, the Board of Directors need not accept the statements of counsel as being the statements of counsel's client if the Board of Directors desires direct testimony. The parties shall be held responsible for the conduct of their counsel. Formal rules of evidence and formal court-type procedures need not be followed by the Board of Directors. The Board of Directors may consider any evidence, testimony or matter it deems to be relevant. The Board may delegate the foregoing hearing authority to a committee of three or more disinterested Owners, who shall conduct the hearing and make a recommendation to the Board regarding disposition of the matter.

D. Lien for Charges, Penalties, Etc. Any Assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board makes a written decision at or following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

E. Costs of Proceeding and Attorneys' Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

F. Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants, or guests or invitees in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

G. Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, and the Act as provided therein.

13. Special Declarant Rights. Declarant hereby reserves exclusive and unconditional authority to exercise the following Special Declarant Rights within the meaning of Section 515B.1-103 (31) of the Act for so long as its owns a Unit, or for such shorter period as may be specifically indicated:

A. Complete Improvements. To complete improvements indicated on the CIC Plat;

B. Create Units and Common Elements. To create Units, Common Elements and Limited Common Elements and subdivide or convert Unit or Units within the Condominium and to relocate boundaries between Units and to otherwise alter Units by it without need of consent of the Owners, Association, or Eligible Mortgagees;

C. Sales Facilities. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Real Estate;

D. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements;

E. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its special declarant rights;

F. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) recording of a written surrender of control of the Association by Declarant; (ii) the date which is 60 days after conveyance to Owners other than Declarant of 75% of the Units, including any Units which have then or may thereafter be added to the Condominium pursuant to paragraph 11; or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, however, not later than 60 days after conveyance of 50% of the Units, including Units which have then or may thereafter be added to the Condominium to Unit Owners other than Declarant, one-third of all of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant at a meeting of the Unit Owners to be called for such purpose;

G. Consent to Certain Amendments. As long as Declarant owns any unsold Unit, Declarant's written consent shall be required for any amendment to this Declaration, the Articles of Incorporation or the Bylaws of the Association or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under this Declaration, or the Articles of Incorporation or Bylaws of the Association.

14. Participation in Master Association. The Board of Directors of the Association shall have the power and authority, pursuant to Section 515B.2-121 of the Act, to delegate to a Master Association any of the powers conferred herein by the Act, this Declaration or the By-Laws of the Association, including but not limited to the powers described in Section 515B.3-102(a)(2) of the Act. Nothing contained in this paragraph shall be deemed to require the Association to participate in or to be subject to a Master Association.

15. Miscellaneous.

A. Right of Association to Hold Unit. Subject to the provisions of the Bylaws of the Association, the Board of Directors, acting on behalf of the Association, shall have the power to acquire, hold, lease, mortgage and convey a Unit, including the power to purchase a Unit at the foreclosure sale for unpaid assessments.

B. Remedies of Association. In the event of the failure of any Unit Owner to comply with the provisions of this Declaration, the Articles or the Bylaws of the Association, or the decisions, regulations or rules of the Association, the Association or any aggrieved Unit Owner may in addition to any other right or remedy available to the Association or such aggrieved Unit Owner, bring an action for the recovery of damages, injunctive relief or both. Suit to recover a money judgment for unpaid Common Expenses or for other amounts owing the Association may be maintained by the Association without foreclosing or waiving the lien securing the same. In the

event of any such suit or action, the prevailing party shall be entitled to recover from the losing party, an amount equal to all costs, including attorney fees, incurred by such prevailing party in the preparation for and prosecution of such suit or action.

C. Condemnation of Common Elements. Subject to the provisions of the Act, the Association shall have control over any condemnation proceedings, negotiations, settlements and agreements with the condemning authority relating to the acquisition by the condemning authority of the Common Elements or any part thereof.

D. Supplemental to Law. The provisions of this Declaration shall be in addition to and supplemental to the Act and to all other provisions of law. This Condominium is not subject to an ordinance provided for in Section 515B.1-106 of the Act.

E. Definition of Terms. As used in this Declaration or in the Bylaws of the Association, any words or terms defined in the Act shall have the meaning there ascribed to them. The singular shall be deemed to include the plural wherever appropriate; and unless the context clearly indicates to the contrary, any obligation imposed shall be joint and several. The "Association" shall mean West River Business Park Condominium Owners Association, Inc., a Minnesota non-profit corporation.

F. Administration. The Unit Owners of Units in the Condominium covenant and agree that the administration of the Condominium shall be in accordance with the provisions of the Act, this Declaration, and the Bylaws of the Association.

16. Amendments. Except for amendments by Declarant pursuant to Sections 515B.2-111 and 515B.2-112(c) of the Act, this Declaration may be amended only by the approval of (i) Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association, (ii) the percentage of Eligible Mortgagees (based upon one vote per first mortgage owned) required by Section 10 as to matters prescribed by said Section and (iii) the consent of Declarant to certain amendments as provided in Section 13. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees and the Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed the date and year first above written.

Declarant:

WEST RIVER BUSINESS PARK PARTNERSHIP, LLP,
a Minnesota Limited Liability Partnership

By _____
Its: General Partner

BREMER BANK, NATIONAL ASSOCIATION,
a United States Corporation

By _____
Its SVP



SCR 21 of 23

STATE OF MINNESOTA)
) ss.
COUNTY OF Benton )

On this 31st day of May, 2005, before me a Notary Public within and for said County, personally appeared Ronald A. Morton, to me known, who being by me duly sworn, did say that he/she is the General Partner of WEST RIVER BUSINESS PARK PARTNERSHIP, LLP, ~~the~~ a Minnesota limited liability partnership named in the foregoing instrument, and that said instrument was signed on behalf of said partnership by authority of its Partner and said General Partner Ronald A. Morton acknowledged said instrument to be the free act and deed of said limited liability partnership.

LINDA M. DAY
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

Linda M Day
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF Stearns )

On this 10th day of June, 2005, before me a Notary Public within and for said County, personally appeared Michael P. Grogan, to me known, who being by me duly sworn, did say that he/she is the Senior Vice Pres. of BREMER BANK, NATIONAL ASSOCIATION, ~~the~~ a United States corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said Senior Vice Pres. acknowledged said instrument to be the free act and deed of said corporation.

MARGARET M. WATZKE
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

Margaret Watzke
Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

Gray, Plant, Mooty, Mooty & Bennett, P.A.
Robert J. Walter
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
Telephone: (320) 252-4414

**EXHIBIT A TO DECLARATION**

**COMMON INTEREST COMMUNITY NUMBER 72**
**A CONDOMINIUM**
**WEST RIVER BUSINESS PARK CONDOMINIUMS**
**SCHEDULE OF UNITS/LEGAL DESCRIPTION OF PROPERTY/PERCENTAGE INTEREST**

Unit 1, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

15%

Unit 2, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

5%

Unit 3, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

18%

Unit 4, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12%

Unit 5, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

25%

Unit 6, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12.5%

Unit 7, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12.5%

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1163067

Certified, Filed, and/or Recorded on

08-02-2005 at 04:05 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

# PLAT NAME:

## WEST RIVER BUSINESS PARK CONDOMINIUMS

## COMMON INTEREST COMMUNITY NO. 72

## A CONDOMINIUM

## PLAT CABINET I-125

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46.50
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7.

WHEN RECORDED MAIL TO:

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1169484

Certified, Filed, and/or Recorded on

09-23-2005 at 03:37 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1169484

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September 9, 2005

# EASEMENT

**KNOW ALL MEN BY THESE PRESENTS**, that **BNSF RAILWAY COMPANY**, (formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company) a Delaware corporation, whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, Grantor, for Ten and No/100 Dollars **($10.00)** to it paid by the **PATCH POUR, LLC,** a limited liability company of the State of Minnesota, whose address for purposes of this instrument is 1819 Mt. Curve Ave., Minneapolis, MN 55403, Grantee, and the promises of the Grantee hereinafter specified, does hereby remise, release and quitclaim unto the Grantee, subject to the terms and conditions hereinafter set forth, an **EASEMENT** for the purpose of encroachment for non-exclusive roadway and utilities purposes, upon its property located at Railroad Mile Post 77.1, hereinafter called Encroachment, over, upon and across the premises, situated in County of Stearns, State of Minnesota, being more particularly described on **EXHIBIT "A"**, attached hereto and by this reference made a part hereof, (the "Easement Premises").

**RESERVING**, however, unto the Grantor, its successors and assigns, the right to construct, place, operate, maintain, alter, repair, replace, renew, improve and remove communication lines above, below and on the surface of the Easement Premises, including, without limitation, transmission by conduit, fiber optics, cable, wire or other means of electricity, voice data, video, digitized information, or other materials or information, pipelines, utility lines, track and facilities including the right of ingress and egress in any such manner as does not unreasonably interfere with Grantee's use of the premises for said non-exclusive roadway and utilities, and further reserving unto Grantor, its successors and assigns, all right and privilege of ingress and egress to said premises as Grantor, its successors and assigns may require to investigate and remediate environmental contamination and hazards, and further reserving the right and privilege to use the Easement Premises for any and all purposes not inconsistent with the use thereof for said non-exclusive roadway and utilities purposes.

The foregoing easement is made subject to leases, licenses and permits heretofore or in the future granted by the Grantor or its predecessors in interest, affecting the said Easement Premises and is subject to the following terms and conditions:

1. To existing interests in the above-described Easement Premises to whomsoever belonging and of whatsoever nature and any and all extensions and renewals thereof, including but not limited to underground pipe line or lines, or any type of wire line or lines, if any.

TCA 87600 Return To: Tri-County Abst.

2. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of said non-exclusive roadway and utilities purpose shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and Easement Premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and Easement Premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the Easement Premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing.

3. The Grantee shall bear the cost of removal, relocation or reconstruction of any and all right of way fences, telephone or telegraph poles, or other facilities, the removal, relocation or reconstruction of which may be made necessary by reason of the use of said Easement Premises for said non-exclusive roadway and utilities purposes.

4. The Grantee shall, at its own cost and expense, make adjustment with industries or other lessees of Grantor for buildings or improvements that may have to be relocated, reconstructed or destroyed by reason of the construction and maintenance of said non-exclusive roadway and utilities purpose on said Easement Premises.

5. On condition that Grantee on behalf of itself, its successors and assigns, by acceptance hereof, covenants and agrees not to construct, without the prior written consent of Grantor, any additional structures on or within the easement herein granted and further agrees that if the present structures located on the Easement Premises is/are at any time in the future removed, raised, relocated or destroyed by an act of man or nature, no new structure will be built or rebuilt on these Easement Premises.

6. The Grantee agrees to keep the above-described Easement Premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said Easement Premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

7. If during the construction or subsequent maintenance of said non-exclusive roadway and utilities purpose, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Grantee shall indemnify, protect and defend the Grantor from any and all liability, claims or demands, if any, which arise as a result of exposure and/or removal of said contaminated soils or materials. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

8. Grantee, in its acceptance hereof, hereby agrees to indemnify and save harmless said Grantor, from and against all lawful claims, demands, judgments, losses, costs and expenses, for injury to or death of the person or loss or damage to the property of any person or persons whomever, including the parties hereto, in any manner arising from or growing out of the acts of omissions, negligent or otherwise of Grantee, its successors, assigns, licensees and invitees or any person whomsoever, in connection with the entry upon, occupation or use of the said Easement Premises herein described, including but not limited to that of the location, construction, operation, restoration, repair, renewal, or maintenance of said non-exclusive roadway and utilities purpose upon the herein described Easement Premises or otherwise.

9. Grantor and Grantee have entered into that certain Letter Agreement For Longitudinal Easements between the Grantor and the Grantee accepted by Grantee on May 11, 2005, and signed by Grantor on August 3, 2005, concerning the Easement Premises (the "Agreement"). The terms of the Agreement are incorporated herein as if fully set forth in this instrument which terms shall be in full force and effect for purposes of this Easement even if the Agreement is, for whatever reason, no longer in effect.

10. If said described Easement Premises, or any part thereof, shall at any time cease to be used by said Grantee, or by the public, for the purpose, as aforesaid, or should they be converted to any other use whatsoever, or should the Grantee fail to perform any of the conditions herein expressed, then and in any such event, all the right, title, interest, benefits and enjoyment of said Grantee, or of the public, in and to said Easement Premises, for any purposes whatsoever, shall immediately cease and the said Grantor, its successors and assigns, may, at its or their option, re-enter, retake and hold said described lands and Easement Premises as of the present estate of said Grantor without compensation to said Grantee, the public, or any other person whomsoever, for improvements or property removed, taken or destroyed, or liability for loss of, or damage to any Easement Premises or the improvements thereon abutting on said easement area or any part thereof.

11. The Grantee or its contractor(s) shall telephone Grantor's Communication Network Control Center at **(800) 533-2891** (a 24 hour number) to determine if fiber optic cable is buried anywhere on the premises; and if so, the Grantee or its contractor(s) will contact the Telecommunications Company(ies) involved, and make arrangements with the Telecommunications Company(ies) for protection of the fiber optic cable prior to beginning any work on the Easement Premises.

12. Grantee or its contractor(s) shall notify the Railway's Roadmaster (Mr. Ron Radika) at 1715 Breckenridge Avenue, St. Cloud, Minnesota 56301 (tel. 320-259-3235) a minimum of five days prior to Grantee or its contractor(s) entering upon the Easement Premises, except for emergencies which may affect the public health, safety and welfare; to perform work on or adjacent to Grantor's right-of-way and tracks to enable Grantor to furnish flagging and such other protective service as might be necessary and Grantee shall reimburse Grantor for the cost thereof.

13. Grantor does not warrant title to said Easement Premises nor undertake to defend the Grantee in the peaceable possession, use or enjoyment thereof; and the grant herein made is subject to all outstanding rights or interest of others, including the tenants and Grantees of the Grantor.

14. This easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns and successors of Grantor and Grantee.

**TO HAVE AND TO HOLD THE SAME**, together with all the hereditaments and appurtenances thereunto belonging to Grantee for public use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

**IN WITNESS WHEREOF**, the said **BNSF RAILWAY COMPANY** has caused this instrument to be signed by its authorized officer, and the corporate seal affixed on the 2nd day of September, 2005.

**BNSF RAILWAY COMPANY**

By: David P. Schneider
David P. Schneider
General Director-Land Revenue Management

BNSF RAILWAY COMPANY CORPORATE SEAL DELAWARE

**ATTEST:**

By: Patricia Zbichorski
Patricia Zbichorski
Assistant Secretary

**STATE OF TEXAS** )
) **ss.**
**COUNTY OF TARRANT** )

The foregoing instrument was acknowledged before me this 2nd day of September, 2005, by David P. Schneider, General Director-Land Revenue Management and Patricia Zbichorski, Assistant Secretary of **BNSF RAILWAY COMPANY**, a Delaware corporation, on behalf of the corporation.

Rhonda Burton
Notary Public

My commission expires: 9/21/2008

This instrument was drafted by:
Staubach Global Services-RR, Inc.
3017 Lou Menk Drive, Suite 100
Fort Worth, Texas 76131-2800

RHONDA BURTON
My Commission Expires
September 21, 2008

| | |
|---|---|
| APPROVED LEGAL | KH |
| APPROVED FORM | Ree |
| APPROVED | REW |

# EXHIBIT "A"

**Ingress and Egress Easement**
**Easement A**

An ingress and egress easement over a 40 foot strip of land across that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), Section 9, Township 124 North, Range 28 West, Stearns County, Minnesota, the centerline is described as follows:

Commencing at the Southwest Corner of said Section 9, thence South 89 degrees 21 minutes 28 seconds East, on an assumed bearing along the south line of said SW1/4 SW1/4, a distance of 965.63 feet, to the point of beginning of the centerline to be described; thence North 02 degrees 34 minutes 41 seconds West, a distance of 114.45 feet; thence 63.21 feet northerly, along a tangential curve, concave to the west, having a central angle of 14 degrees 29 minutes 10 seconds, and having a radius of 250.00 feet; thence North 17 degrees 03 minutes 51 seconds West, tangent to said curve, a distance of 99.54 feet; thence 49.73 feet northwesterly, along a tangential curve, concave to the southwest, having a central angle of 11 degrees 23 minutes 54 seconds, and having a radius of 250.00 feet; thence North 28 degrees 27 minutes 44 seconds West, tangent to said curve, a distance of 216.36 feet, to a point hereinafter referred to as Point "A"; thence 49.84 feet westerly, along a tangential curve, concave to the southwest, having a central angle of 57 degrees 06 minutes 54 seconds, and having a radius of 50.00 feet; thence North 85 degrees 34 minutes 38 seconds West, tangent to said curve, a distance of 241.13 feet and there terminating. The sidelines of said easement shall terminate on the south line of said SW1/4 SW1/4, and on a line, which bears North 00 degrees 02 minutes 22 seconds East, from the point of termination.

**Easement B**

An ingress and egress easement over a 40 foot strip of land across that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), Section 9, Township 124 North, Range 28 West, Stearns County, Minnesota, the centerline is described as follows:

Beginning at the Point "A", thence North 28 degrees 20 minutes 49 seconds West, a distance of 223.32 feet; thence 21.25 feet westerly, along a tangential curve, concave to the southwest, having a central angle of 60 degrees 53 minutes 27 seconds and having a radius of 20.00 feet; thence
North 89 degrees 14 minutes 16 seconds West, tangent to said curve, a distance of 157.05 feet and there terminating. The sidelines of said easement shall terminate on a line, which bears North 00 degrees 02 minutes 22 seconds East, from the point of termination.

**EXHIBIT "A" continued:**

**Utility Easement (Power Line)**

A 14 foot utility easement over, under and across that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), Section 9, Township 124 North, Range 28 West of the 5th Principal Meridian, Stearns County, Minnesota, whose centerline is described as follows: Commencing at the Southwest Corner of said Section 9, thence South 89 degrees 21 minutes 28 seconds East, on an assumed bearing along the south line of said SW1/4 SW1/4, a distance of 379.32 feet; thence North 03 degrees 45 minutes 56 seconds West, a distance of 168.55 feet, to a point on a the boundary line of a tract of land as described in a Quitclaim Deed from Burlington Northern Railroad Company to the City of Waite Park, Minnesota, Document Number 602758, and to the point of beginning of the centerline to be described, thence continuing North 03 degrees 45 minutes 56 seconds West, a distance of 177.13 feet; thence North 01 degrees 59 minutes 33 seconds West, a distance of 131.58 feet; thence North 03 degrees 25 minutes 39 seconds West, a distance of 33.49 feet and there terminating. The side lines shall be prolonged or shortened to terminate on the boundary line of a tract as described in Document No. 602758 and on a line which bears North 89 degrees 45 minutes 53 seconds West, from the point of termination.

**Utility Easement (Sanitary Sewer)**

A 16 foot utility easement over, under and across that part of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4), Section 9, and that part of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), Section 8, Township 124 North, Range 28 West of the 5th Principal Meridian, Stearns County, Minnesota, whose centerline is described as follows:

Commencing at the Southeast Corner of said Section 8, thence North 00 degrees 02 minutes 22 seconds East, on an assumed bearing along the east line of the SE1/4 SE1/4, of said Section 8, a distance of 507.06 feet; thence South 89 degrees 45 minutes 53 seconds East, a distance of 15.05 feet, to the point of beginning of the centerline line of the line to be described: thence South 00 degrees 35 minutes 32 seconds West, a distance of 5.15 feet; thence South 03 degrees 51 minutes 16 seconds West, a distance of 109.59 feet; thence North 89 degrees 42 minutes 29 seconds West, a distance of 207.24 feet; thence North 89 degrees 57 minutes 48 second West, a distance of 470.06 feet, more or less, to the east line of a tract of land described in Quitclaim Deed Document No. 984881, recorded October 19, 2001 from Burlington Northern and Santa Fe Railway Company to St. Cloud Amateur Radio Club Inc. and there terminating. The sidelines of said easement shall be prolonged or shortened to a line, which bears South 89 degrees 45 minutes 53 seconds East, from the point of beginning and on the east line of a tract of land described in Quitclaim Deed Document No. 984881, recorded October 19, 2001 from Burlington Northern and Santa Fe Railway Company to St. Cloud Amateur Radio Club Inc.

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FILED
FEB 10 2006
RANDY R. SCHREIFELS
COUNTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1184784
Certified, Filed, and/or Recorded on
02-10-2006 at 10:11 AM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

**CORRECTIVE**
**COMMON INTEREST COMMUNITY NUMBER 72**
**A CONDOMINIUM**
**WEST RIVER BUSINESS PARK CONDOMINIUMS**
**DECLARATION**

**THIS DECLARATION IS BEING MADE AND RECORDED TO CORRECT THAT CERTAIN DECLARATION BETWEEN THE PARTIES DATED AUGUST 2, 2005, AND RECORDED AUGUST 2, 2005, AS DOCUMENT NO. 1163067 WITH THE COUNTY RECORDER'S OFFICE FOR STEARNS COUNTY, MINNESOTA.**

THIS DECLARATION is made this 2nd day of August, 2005, by WEST RIVER BUSINESS PARK PARTNERSHIP, LLP, a Minnesota Limited Liability Partnership (hereinafter referred to as "Declarant"), and by Bremer Bank, National Association, a United States Corporation, (hereinafter referred to as "Mortgagee") pursuant to the provisions of the Minnesota Common Interest Ownership Act, Minnesota Statutes Sections 515B.1-101 to 515B.4-118 as amended (hereinafter referred to as the "Act").

WHEREAS, the Declarant is the fee simple owner of that certain real estate situated in Stearns County, Minnesota, legally described as:

**Lot 7, Block 1, WEST RIVER BUSINESS PARK, a duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.**

(hereinafter referred to as the "Real Estate"); and

WHEREAS, the Real Estate is improved with and includes one (1) building containing seven (7) non-residential Units and other facilities.

WHEREAS, Mortgagee is the holder of the Mortgagee's interest in that certain mortgage covering the Real Estate and filed for record as Document Number 1008129 in the office of the County Recorder in and for Stearns County, Minnesota; and

NOW, THEREFORE, in order to establish the Real Estate as a Condominium pursuant to the Act, Declarant and Mortgagee hereby declare that the Real Estate is subject to the covenants, restrictions, terms and conditions hereinafter set forth in this Declaration, which shall constitute covenants running with the Real Estate and shall be binding on Declarant and Mortgagee, their successors and assigns, and on all subsequent holders of any right, title or interest in or to all or any part of the Real Estate, their grantees, successors, heirs, personal representatives, devisees and assigns;

1. General. The Common Interest Community created hereby pursuant to the Act is a Condominium, and it is not currently subject to a Master Association. The name and number of the Condominium, the County in which the Condominium is situated, and the legal description of the Real Estate included in the Condominium are as

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hereinabove set forth. The Association (as hereinafter defined) has been incorporated under Chapter 317A of Minnesota Statutes. Declarant has incorporated West River Business Park Condominium Owners Association, Inc., (referred herein as "Association"), under the laws of the State of Minnesota as a non-profit corporation for the purpose of acting as the Association with the duty and power of maintaining, administering and enforcing the covenants and restrictions, and collecting and enforcing the assessments and charges hereinafter created and imposed.

The Common Interest Community does not include shoreland as defined in Minnesota Statute 103F.205.

2. Condominium Units. There are seven separate Units located in one building as shown on the Common Interest Community Plat (hereinafter referred to as the "CIC Plat") certified by Barry Dorniden, Duffy Engineering & Associates, Inc., 350 Highway 10 South, Suite 101, St. Cloud, Minnesota 56304, Registered Land Surveyor, Minnesota Registration No. 23044, as accurately depicting all the information required by Section 515B.2-110(c) of the Act, which CIC Plat is a part hereof. The identifying number, location and boundaries of each of the seven (7) Units established hereby are set forth in Exhibit A attached hereto and/or in the CIC Plat. The boundaries of each Unit shall be the interior unfinished surface of the walls, floors and ceilings thereof depicted as boundaries in the CIC Plat. Accordingly, all lath, furring, wallboard, plasterboard, and plaster constituting a part of the wall shall be deemed to be outside of the Unit and any paneling, tiles, wallpaper, paint, carpeting, linoleum or other wall or floor coverings or finishings shall be deemed to be included within the Unit. The entry area depicted on the CIC Plat shall be considered part of the Unit. All doors and windows located in the parametrical walls of a Unit shall be deemed to be part of that Unit.

Each of the seven Units is hereby allocated one vote in the Association. The percentages of undivided interests in the Common Elements and of the Common Expenses of the Association allocated to each Unit on such basis is the Percentage Interest set forth opposite each such Unit in Exhibit A attached hereto.

3. Common Elements; Limited Common Elements. All portions of the Real Estate other than the Units are Common Elements. Certain portions of the Common Elements designed to serve a single Unit are, by operation of Section 515B.2-102(d) and (f) of the Act, Limited Common Elements allocated for the exclusive use by the respective Unit served thereby to the exclusion of other Units. The heating, ventilating, air conditioning equipment (HVAC) serving each Unit (including rooftop Units) are Limited Common Elements allocated for the exclusive use of such Unit. The HVAC equipment which is a Limited Common Element shall be maintained, repaired and replaced by the Owner of such Unit allocated to that Owner's sole use and benefit, but may be subject to a master maintenance agreement held and managed by the Association. The ceiling-hung gas fire heaters, as depicted on the CIC Plat, are Limited Common Elements to be maintained, repaired and replaced by the Owner of such Unit as that heater serves. Notwithstanding the foregoing, the Association by the Rules and Regulations may agree to maintain any equipment or area in the Limited Common Elements or Unit. The Association may assess the cost of such maintenance as a Common Expense, or as a Limited Allocation Assessment to the individual Unit.

An allocation of Limited Common Elements established pursuant to this Declaration may be changed as hereinafter provided. The reallocation shall be accomplished by an amendment to this Declaration executed by the Owners between or among whose Units the reallocation is made and the Association. The Unit Owners required to execute the Amendment shall submit to the Association an application, including a proposed Amendment, for approval as to form and compliance with this Declaration and the Act. The Association, through its Board of Directors, shall have the right to establish fair and reasonable procedures and timeframes for the submission and processing of the applications, and shall maintain records thereof. If approved, the Unit Owners executing the Amendment shall promptly record the Amendment and deliver a copy of the recorded Amendment to the Association. The Association may require the Unit Owners executing the Amendment to pay all fees and costs for reviewing, preparing, and recording the Amendment and any amended CIC Plat.

4. Association Membership: Rights and Obligations. Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

A. General. Each Owner shall be a member of the Association by virtue of it's ownership of a Unit, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person or entity is an Owner of a Unit, all such Persons or entities shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit.

B. Voting and Common Expenses. Voting rights are allocated equally among the Units, subject to this Declaration. Common Expenses are allocated to each Unit on such basis as the Percentage Interest, as set forth opposite each such Unit in Exhibit A attached hereto.

C. Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately.

D. Authority to Vote. The Owner, or some other natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in the Bylaws.

5. Administration. The administration and operation of the Association and the Real Estate, including but not limited to the acts required by the Association, shall be governed by the following provisions:

A. General. The operation and administration of the Association and the Real Estate, shall be governed by the Declaration, By-Laws, the Rules and Regulations and the Act ("Governing Documents"). The Association shall, subject to the rights of the Owners set forth in the Governing Documents, be responsible for the operation, management and control of the Real Estate. The Association shall have all powers described in the Governing Documents and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents. All references to the Association means the Association acting through the Board unless specifically stated to the contrary.

B. Operational Purposes. The Association shall operate and manage the Real Estate for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents; (ii) maintaining, repairing and replacing those portions of the Real Estate for which it is responsible; and (iii) preserving the value and architectural uniformity and character of the Real Estate.

C. Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

D. By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

E. Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's Officers and Directors by the Governing Documents; provided, however, that such delegation shall not relieve the Officers and Directors of the ultimate responsibility for the performance of their duties.

F. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for

the purpose of operating and administering the affairs of the Association and regulating the use of the Real Estate; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents.

6. Assessments.

A. General. Assessments shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in this Section and the requirements of the By-Laws. Assessments shall include Annual Assessments and may include Special Assessments and Limited Allocation Assessments. Assessments shall be allocated among the Units based on a square footage basis of that Unit as set forth on Exhibit A. Limited Allocation Assessments shall be allocated to the Units as set forth in that Section E.

B. Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth hereafter. Each Annual Assessment shall cover all of the anticipated Common Expenses of the Association for that year which are to be shared by all of the Units in proportion as set forth on Exhibit A. Annual Assessments shall be payable in equal monthly installments. Annual Assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Units for which the Association is responsible.

1. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the Common Interest Community.

2. After a Common Expense assessment is levied, the Annual Assessment may be subsequently increased or decreased by the Board, subject to limitations contained herein.

3. Until the termination of the period of Declarant control, and except for the variations authorized herein and premiums on insurance carried by the Association, Real Estate taxes paid by the Association, the increase in the Annual Assessment for any year shall not exceed the greater of (i) five percent (5%) of the total Annual Assessment for the Association's previous fiscal year or (ii) the percentage increase in the National Bureau of Labor Statistics Consumer Price Index for the Minnesota Twin City Metropolitan Area (or comparable index if not available) for the most recent available year, multiplied by the total Annual Assessment for the Association's previous fiscal year. Notwithstanding the foregoing, a larger increase in the Annual Assessment will occur where it is approved by the vote of sixty-seven percent (67%) of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting. The foregoing restriction shall apply only during the period of Declarant Control of the Association.

C. Special Assessments. In addition to Annual Assessments, and subject to the limitations set forth herein, the Board may levy in any Assessment year a Special Assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any unforeseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement and (iii) the maintenance, repair or replacement of any part of the Real Estate, and any fixtures or other property related thereto. Notwithstanding the foregoing, any Special Assessment shall be subject to approval by the vote of sixty-seven percent (67%) of the Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting.

D. Working Capital Fund. There shall be established a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the Association's beginning years of operation. The Board shall include in each subsequent annual

budget a reasonable amount of working capital, based upon the anticipated needs of the Association for the year in question. The funds shall be deposited into the Association's account, and Declarant may not use the funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficit while Declarant is in control of the Association. However, upon closing of a previously unsold Unit, Declarant may reimburse itself from funds collected at the closing for funds which it contributed to the Working Capital Fund with respect to that Unit.

E. Limited Allocation Assessments. In addition to Annual Assessments and Special Assessments, the Board may, at its discretion, levy and allocate Limited Allocation Assessments among only certain Units in accordance with the following:

1. Any Assessment associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit.

2. Any Assessment or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality, (ii) square footage of the area being maintained, repaired or replaced, or (iii) the actual cost incurred with respect to each Unit, as appropriate.

3. The costs of insurance may be assessed in proportion to value or risk of coverage per Unit, and the costs of utilities may be assessed in proportion to usage.

4. Reasonable attorneys fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.

5. Fees, charges, late charges, fines and interest may be assessed as provided in Sections 515B.3-115, 515B.3-116, and 515B.3-117 of the Act.

6. Assessments levied under Sections 515B.3-115 and 515B.3-116 of the Act to pay a judgment against the Association may be levied against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.

7. If any damage to the Common Elements, Limited Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, their guests or their invitees, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.

8. If any installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.

9. If Common Expense liabilities are reallocated for any purpose authorized by the Act, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

10. Assessments under Section 6E shall not be considered Special Assessments as described in Section 6C, and may, at the Board's discretion, be assessed as part of, or in addition to, the Assessments levied under Section 6.

F. Liability of Owners for Assessments. The obligation of an Owner to pay Assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board, subject to the Alternative Assessment Program described in Section 6G. The Owner at the time an Assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Real Estate, by absence from or abandonment of the Unit, by the waiver of any rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth herein, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

G. Declarant's Alternative Assessment Program. The following Alternative Assessment program is established pursuant to Section 515B.3-115(a)(2) of the Act. Notwithstanding anything to the contrary in this Section 6, if a Common Expense has been levied, any unsold Unit owned by Declarant shall be assessed at the rate of twenty-five percent (25 %) of the Assessment levied on other Units of the same type until a certificate of occupancy has been issued with respect to such Unit by the municipality in which the Unit is located. This reduced assessment shall apply to each Unit owned by Declarant at the time that the Unit is created, and shall continue until the issuance of the certificate of occupancy as previously described. The Declarant's authority to commence the Alternative Assessment Program will end upon the expiration of the period of Declarant's control of the Association, as provided in Section 515B.3-103 of the Act and as set forth in this Declaration. Although this Alternative Assessment Program will not affect the allocated share of replacement reserves attributable to Units owned by Declarant, there are no assurances that this Alternative Assessment Program will have no effect on the level of services for items set forth in the Association's budget.

H. Assessment Lien. The Association has a lien on a Unit for any Assessment levied against that Unit from the time the Assessment becomes due. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, lines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as Assessments, under this Section 6. The release of the lien shall not release the Owner from personal liability unless agreed to in writing by the Association.

**RECORDING OF THIS DECLARATION CONSTITUTES RECORD NOTICE AND PERFECTION OF ANY LIEN UNDER THIS SECTION 6, AND NO FURTHER RECORDATION OF ANY NOTICE OF OR CLAIM FOR THE LIEN IS REQUIRED.**

I. Foreclosure of Lien; Remedies. A lien for Assessments may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any Assessment or charge against the Unit.

J. Lien Priority; Foreclosure. A lien under this Section 6 is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before this Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a

Unit recorded on or after the date of the recording of the Declaration is foreclosed and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes, Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Section 515B.3-115 of the Act which became due, without acceleration, during the six (6) months immediately preceding the first day following the end of the Owner's period of redemption.

K. Voluntary Conveyances; Statement of Assessments. In a voluntary conveyance of a Unit the purchaser shall not be personally liable for any unpaid Assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the purchaser, unless expressly assumed by the purchaser. However, the lien of such Assessments shall remain against the Unit until satisfied or released, and may be foreclosed or otherwise enforced. Any seller or purchaser shall be entitled to a statement in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Unit, including all Assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and purchaser.

7. Use of the Condominium. All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in a Unit or Real Estate, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of a Unit or Real Estate shall be subject to the following restrictions:

A. General. A Unit or Real Estate shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Real Estate, and shall run with the property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring, owning or leasing an interest in a Unit or Real Estate, their heirs, personal representatives, successors and assigns.

B. Non-Residential Use. The Units shall be used by Owners, Occupants and their guests and invitees exclusively for commercial, business, professional or other non-residential purposes. No changes in the use of the Real Estate or Units shall be made without prior receipt of all appropriate governmental approvals.

C. Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements, which is contrary to state, local and federal law or which may be in violation of any subdivision or zoning law or code.

D. Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit may be subleased, (ii) that all leases shall be in writing, (iii) no Unit shall be leased for transient or hotel purposes, and (iv) that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section. No lease shall be for less than the entire Unit, unless approved of by the Board.

E. Parking. Parking areas on the Real Estate shall be used for parking of vehicles owned or leased by Owners, Occupants, and their guests and invitees, and such other incidental uses as may be authorized in writing by the Association. The use of driveways and other parking areas on the Real Estate, and the types of vehicles and personal property permitted thereon, shall

be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.

F. Animals. No animal may be bred, or kept or maintained for business or commercial purposes, anywhere on the Real Estate. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

G. Quiet Enjoyment; Interference Prohibited. All Owners, Occupants and their guests and invitees shall have a right of quiet enjoyment in their respective Units, and shall use the Real Estate in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Real Estate by other Owners, Occupants, and their guests and invitees.

H. Compliance with Law. No use shall be made of the Real Estate or Units which would violate any then existing municipal codes or ordinances or state or federal laws, nor shall any act or use be permitted which could cause waste to the Real Estate or Unit, cause a material increase in insurance rates on the Real Estate or Unit, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner, Occupant, guest, or invitee.

I. Alterations. Except for those made by Declarant in consideration of its initial sale of a Unit, no alterations, changes, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively referred to as "alterations") shall be made, or caused or allowed to be made, by any Owner, Occupant, or their guests or invitees, in any part of the Common Elements, or in any part of the Unit which affects the Common Elements or which is visible from the exterior of the Unit, without the prior written consent of the Board, or a committee appointed by it. The Board, or the appointed committee if so authorized by the Board, shall have authority to establish reasonable criteria and requirements for alterations, and shall be the sole judge of whether the criteria are satisfied.

J. Time Share Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

K. Easements for Encroachments. If, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Condominium, any portion of the Common Elements encroaches upon a Unit or Units or any portion of a Unit encroaches upon the Common Elements or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for the purposes of marketability of title. In the event the Real Estate is partially or totally destroyed, and then rebuilt, the Unit Owners shall permit minor encroachment of parts of the Common Elements, and of other Units, due to reconstruction, and a valid easement for said encroachments and the maintenance thereof shall exist.

L. Access Easements. Each Unit shall be the beneficiary of an appurtenant easement for access to a public street or highway on or across the Common Elements as shown on the Plat, subject to any restrictions set forth in this Declaration.

M. Use and Enjoyment Easements. Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, subject to any restrictions authorized by this Declaration.

N. Benefit of Easements. All easements benefiting a Unit shall benefit the Owners and Occupants of the Unit, and their invitees and guests. However, an Owner who has delegated the right to occupy the Unit to an Occupant or Occupants, whether by lease or otherwise, does not

have the use and other easements rights in the Property during such delegated occupancy, except as a guest of an Owner or in connection with the inspection of the Unit or recovery of possession of the Unit from the Occupant pursuant to law.

O. Personal Property for Common Use. The Association may acquire and hold for the use of all the Members tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in such property shall not be transferable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Member may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Members. The Association shall have the authority to impose reasonable rules, regulations and charges upon the use of such property.

P. Emergency Access to Units. In case of emergency, all Units and Limited Common Elements are subject to an easement for access, without notice and at any time, by an officer or member of the Board, by the Association's management agents or by any public safety personnel. The Board may require that an Owner or Occupant leave the keys to the Unit with another owner of his or her choice or agent of the Board, and to advise the manager or Board of the locations of the keys, so as to allow access for emergencies when the Owner or Occupant is absent for extended periods.

Q. Rules. Each Unit Owner, occupant, tenant, guest, or invitee shall use the Units and the Common Elements only in compliance with the provisions of the Act, this Declaration, the Articles and the Bylaws of the Association, all as lawfully amended from time to time, and with all decisions, resolutions and rules promulgated by the Board of Directors. Failure to comply with any such provisions, rules, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief, or both. Additionally, in the event of any such failure to comply, the Association may levy and collect reasonable fines in accordance with the provisions of the Act.

R. Prohibited Activities. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Real Estate, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board of Directors cause unreasonable noise or disturbance to others. No Owners, visitors, guests or invitees may park in areas not specifically designated for parking on the CIC Plat or in this Declaration.

S. Unit Exterior. No Owner shall paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Board of Directors who, in its discretion, may deny. No Owner of a Unit, shall display, hang, store or use any sign outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit without the prior written permission of the Board of Directors and such signage shall be in conformance with the Rules and Regulations and any Governmental rule or regulation.

T. Trash. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in the Rules and Regulations promulgated by the Board of Directors. At its option, the Association may contract with a single provider for the removal and disposal of garbage, trash and other solid waste from all Units in accordance with this Declaration. Each Unit Owner shall be obligated to purchase such services from the provider designated by the Association upon the terms, conditions and rates negotiated by the Association. Any charges imposed by the provider designated by the Association shall be paid by the Association and shall be a Common Expense. In the event that any Unit Owner requests any services not included within the basic/general charges of the provider, the Association may assess all costs incurred for such additional services against that Unit Owner's Unit. Outside storage of any items, including but without limitation, equipment,

trash and garbage containers shall not be allowed. Trash and garbage may be kept outside only in approved outside storage areas. Outside storage is subject to Governmental rules and regulations.

U. Storage of Personal Property. Except as provided in this Declaration or as permitted by the Rules and Regulations adopted from time to time by the Board of Directors in its sole discretion, no personal property of any kind whatsoever belonging to any Owner or to any tenant of such Owner or any guest or invitee of any Owner shall be stored, placed or kept, temporarily or permanently, in or on the Common Elements.

V. Machines. No Owner shall overload the electrical wiring in the Condominium or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others.

W. Rules and Regulations. The Board of Directors may, from time to time, promulgate rules and regulations regarding the use of the Units and the Common Elements, provided that such rules and regulations shall be reasonable in scope and shall tend to promote the use of the Real Estate for the purposes set forth herein.

X. Parking. Parking areas in the Common Elements shall be designated for guests, invitees, visitors, employees and owners of the Condominium, but certain areas may be restricted as to who may park by the Rules and Regulations.

Y. Right to Relocate Boundaries and Alter Units by Owner. Units may be altered and Unit boundaries by the Owner may be relocated only in accordance with the following terms and conditions and subject to Section 515B.2-14 of the Act:

1. An Owner may make improvements or alterations of such Units or, may after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures therein in accordance with Section 515B.2-114 of the Act and this Section.

2. The boundaries between adjoining Units may be relocated in accordance with Section 515B.2-114 of the Act and this Section.

3. No additional Units may be created by the subdivision or conversion of a Unit (within the meaning of the Act), except by the Declarant.

4. The alteration, relocation of boundaries or other modification of Units or other structures located therein (collectively referred to herein as "Alteration" or "Alterations") pursuant to this Section, and the Act may be accomplished only in accordance with the following conditions:

(a) No Unit may be altered if it would no longer be usable for its intended purpose or would violate any law, code or ordinance of any governmental authority having jurisdiction over the Property.

(b) No Alteration may be made which adversely affects the structural or functional integrity of any building system or the structural support or weather-tight integrity of any portion of any building or other structure.

(c) The prior written consent of the Association shall be required for any Alteration except Alteration made by the Declarant in which no consent from the Association is required. Where required, such consent shall be requested in writing by each Owner whose Unit is proposed to be altered, accompanied by such explanation, drawings and specifications relating to the proposed Alterations as may be reasonably required by the Association or the Eligible

Mortgagee of the Unit. The Association shall give such Owners notice in an expeditious manner, granting, denying or qualifying its consent.

(d) As a precondition to consenting to Alterations, the Association may require, among other things, the following: (i) that all Alterations will be done in a workmanlike manner and without impairing the structural, mechanical or weather-tight integrity of the Unit; (ii) that the Common Elements and altered Units will be repaired and/or restored in the future as required by the Association; (iii) that the construction of the Alterations will not create dangerous conditions for any Owners or Occupants; (iv) that the Real Estate, the Eligible Mortgagees and the Owners and Occupants will be protected from liens and other liability arising from the Alterations; and (v) that the Alterations will be done in compliance with the applicable laws, regulations and ordinances of the governmental authorities having jurisdiction over the Real Estate.

(e) The Association may require that the Owners of the Units to be altered pay all costs of processing or documentation for the request and the preparation and recording of any necessary amendment to the Governing Documents, including without limitation such costs as filing, architects and attorneys fees incurred by the Association in connection with the Alterations.

Z. Additional Restrictions.

1. The Real Estate and Units are subject to the terms and conditions of a Declaration of Covenants and Restrictions, dated September 11, 1997, and recorded January 23, 1998, as document number 863401 restricting the use of the Real Estate and Units by prohibiting the Real Estate and Units from a gas station/convenience store being maintained or operated thereon for a period of twenty-five (25) years from the date of recording of the covenant.

2. The Real Estate and Units are subject to the terms and conditions of an Easement and Declaration of Restrictions and Covenants, dated May 6, 1997, and recorded May 16, 1997, as document number 845329, which was modified by a Modification of Easement and Declaration of Restrictions and Covenants, dated December 21, 2001, and recorded January 18, 2002, as document number 996097 restricting the use of the Real Estate and Units. The Real Estate and Units are limited to commercial and industrial use. The following uses are not allowed: daycare centers; any form of educational facility; churches; social centers; hospitals; elder care facilities; nursing homes; recreational; single-family or multiple family dwellings. The modification allows a specific exemption for a charter school in accordance with a more specific description set out in that document. There are specific excavation and soils use requirements and restrictions contained in that declaration.

8. Maintenance and Repair.

A. Every Unit Owner shall perform promptly all maintenance and repair work required within such Owner's own Unit and which, if not performed, would affect the Common Elements or another Unit or Units. Upon the failure of any Unit Owner to perform such Owner's responsibilities under this paragraph, the Association may, but shall not be obligated to, perform the same and such Unit Owner shall be liable to the Association for all expenses incurred by the Association in performing the same and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense Assessments. All incidental damage or liability caused to a Unit or Units or to the Common Elements by the failure of a Unit Owner to perform such Owner's obligations under this paragraph or caused in the course of performing such obligations shall be the responsibility of the Unit Owner.

B. If maintenance, repairs or replacements to the Common Elements or to the Unit of another Unit Owner are necessitated by the negligence, willful act, misuse or neglect of a Unit Owner or of anyone for whose negligence, willful act, misuse or neglect such Unit Owner is

responsible, the expense thereof shall be charged to such offending or responsible Unit Owner, and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense assessments.

C. The Association is responsible for maintenance, repair, and replacement of the Common Elements including that part of the Limited Common Elements as may be agreed to by the Association. Except as provided in paragraph 8.B. above, any Common Expense associated with the maintenance, repair or replacement of a Common Element or Limited Common Element (as may be agreed to by the Association), shall be assessed against all the Units in accordance with the Common Expense liability allocated to each Unit hereunder and shall not be assessed solely against the Unit or Units to which such Limited Common Element is assigned. Notwithstanding the foregoing, the Association by Rules and Regulations may agree to maintain elements in the Limited Common Element and any related equipment located in the Unit. The Association may assess the cost of such maintenance as a Common Expense or as a Limited Allocation Assessment to the individual Unit. The Association shall have an easement for access and entry upon reasonable advance notice into and through any Unit where such access or entry is necessary for the Association to perform its maintenance, repair and replacement obligations.

The Association may contract with a professional property management company and the cost will be a Common Expense.

**THE ASSOCIATION SHALL NOT BE LIABLE TO THE OWNER OR ANY THIRD PARTY GUESTS OR INVITEES FOR IMPROPER OR INADEQUATE SNOW REMOVAL. THE OWNER WILL RELEASE, DEFEND AND INDEMNIFY THE ASSOCIATION AND HOLD THE ASSOCIATION HARMLESS FROM ALL CLAIMS.**

D. All incidental damage caused to any Unit as a result of any work done by the Association in accordance with its responsibilities as set forth herein or in the Act or as a result of any damage to, failure of or malfunction of anything to be maintained, repaired or replaced by the Association in accordance with the provisions hereof or in the Act, shall be the responsibility of the Association and the cost of repairing such incidental damage shall be a Common Expense.

E. Notwithstanding the foregoing, the Association may agree to be responsible for more or less of the maintenance, repair and replacement in the Common Elements, Limited Common Elements, and Units. The Association may charge and access individual Units for the expense and the amount thereof shall be a lien on such Owner's Unit and shall be collectible in the same manner as set forth herein with respect to Common Expense Assessments.

F. Each wall built as part of the original construction of the Units and located on the boundary line between Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto, including:

1. The Owners of the Units which share the party wall shall be responsible for the maintenance repair and replacement of party wall in proportion with their use; provided (i) that any, maintenance, repair or replacement necessary, due to the acts or omissions of a certain Owner or Occupant sharing such party wall shall be paid for by such Owner, (ii) that the Association may contract for and supervise the repair of damage caused by an Owner or Occupant, and unless the Owners for their respective shares of the cost to the extent not covered by insurance.

2. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has use of the wall may, with the consent of the Association, restore it, and the other Owner shall promptly reimburse the Owner who restored the wall for it's share of the cost of restoration thereof; provided, however, that the cost of restoration resulting from destruction or other casualty

resulting from the acts or omissions of certain Owners shall be the financial responsibility of such Owners, and the Association may assess the responsible Owners for their share of the costs, without prejudice to the right of an Owner to recover a larger contribution from the other Owner. Insurance claims shall be made promptly following any casualty.

3. Notwithstanding any other provision of this Section, any Owner who, by it's negligence or willful act, causes a party wall to be exposed to the elements shall bear the whole cost of the repairs necessary for protection against such elements.

4. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Unit and shall pass to such Owner's assigns and successors in title.

5. In the event of any disputes arising concerning a party wall, and if the same is not resolved within thirty (30) days of the event causing the dispute, the matter shall be submitted to binding arbitration under the rules of the American Arbitration Association, upon the written demand of the Association or any Owner whose Unit shares the party wall. Each party agrees that the decision of the arbitrators shall be final and conclusive of the questions involved. The fees of the arbitrators shall be shared equally by the parties, but each party shall pay its own attorney fees or other costs to prove its case.

9. Required Insurance. Commencing not later than the time of the first conveyance of a Unit to a Unit Owner other than Declarant, and in addition to the requirements of the Act, the Association shall maintain, to the extent reasonably available, the following insurance: (a) fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage, debris removal, cost of demolition, malicious mischief, windstorm, water damage and all other perils which are customarily covered with respect to projects similar to the Real Estate in construction, location and use, including all other perils normally covered by the standard "all risk" endorsement, if such is available). Such insurance shall insure all personal property belonging to the Association and all structures, fixtures, buildings and other improvements included in the Real Estate subject to this Declaration (including all building service equipment and all of the Units and the fixtures installed therein as of the date hereof, and specifically including, without limiting the generality of the foregoing, interior walls, interior doors, electrical and plumbing conduits, pipes and fixtures installed therein as of the date hereof, but not including carpeting, wallcoverings, furniture, furnishings, equipment, or personal property belonging to the Unit Owners and not including improvements, fixtures and other property supplied or installed by Unit Owners). Such insurance shall cover the interest of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors; (b) worker's compensation insurance and insurance covering legal liability arising out of lawsuits related to employment contracts of the Association; (c) comprehensive public liability insurance in such amounts (but not less than $2,000,000 for any one occurrence) and with such coverage as the Board of Directors shall from time to time determine, but at least covering events occurring anywhere on the Common Elements or arising out of or in connection with the existence, use, ownership, management, or maintenance of the Common Elements, and insuring each officer and member of the Board of Directors, the Association, the managing agent, and their respective employees, agents, and all persons acting as agents, and each Unit Owner and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner, or claims of one or more insured parties against other insured parties, and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an insured party, including a Unit Owner, for the negligent act of another insured party, including a Unit Owner, occupant or the Association (the Unit Owners shall be included as additional insureds only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements); (d) director's and officer's liability insurance in such amounts as the Board of Directors shall, from time to time, reasonably determine; and (e) such other insurance as the Board of Directors may determine. If reasonably available, the policy or policies of fire and extended coverage shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild and an inflation guard endorsement. The Board of Directors may from time to time designate an insurance trustee to receive proceeds.

The Association may, in the case of a claim for damage to a Unit or Units, (i) pay the deductible amount as a common expense, (ii) assess the deductible amount against the Units affected in any reasonable manner it may determine, or (iii) require the Unit Owners of the Units affected to pay the deductible amount directly.

If the insurance described herein is not reasonably available, the Association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

Insurance policies carried herein shall provide that: (i) each Unit Owner and secured party is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against any Unit Owner and against the Association and members of the Board of Directors; (iii) no act or omission by any Unit Owner or secured party, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and (iv) if at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy is primary insurance.

Any loss covered by the property insurance policy herein shall be adjusted by and with the Association. The insurance proceeds for that loss shall be payable to the Association, or to an insurance trustee designated by the Association for that purpose. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and their mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements and Units. Unit Owners and mortgagees are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Condominium is terminated.

An insurer that has issued an insurance policy pursuant to this paragraph shall issue certificates or memoranda of insurance, upon request, to any Unit Owner or mortgagee. The insurance may not be canceled until 30 days after notice of the proposed cancellation has been mailed to the Association, each Unit Owner and each mortgagee to whom certificates of insurance have been issued.

Each Unit Owner shall maintain insurance for such Owner's own benefit insuring such Owner's personal liability, and such Owner's carpeting, wallcovering, fixtures, furniture, furnishings, equipment, personal property and improvements, fixtures and other property supplied or installed by such Owner or a previous Unit Owner or tenant; provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

In addition to the foregoing powers, and not in limitation thereof, the Board of Directors shall have the authority at all times without action by the Unit Owners to obtain and maintain in force any other coverages or endorsements which are required under the Act or which the Board of Directors deems necessary or desirable.

Insurance premiums for any blanket property insurance coverage and the other insurance coverages purchased by the Association shall be Common Expenses to be paid by assessments levied by the Association, and such assessments shall be held in an account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

10. Rights of First Mortgagees. The following provisions shall take precedence over all other provisions of this Declaration, and in the event of any inconsistency or contradiction, the following provisions shall control:

A. A first mortgagee of a Unit or its assigns, upon request, will be entitled to written notification from the Association of: (a) any default in the performance by the Unit Owner of any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days; (b) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or (c) any proposed action which, pursuant to this Declaration or the Act, requires the consent of a specified percentage of the first mortgagees of the Units.

B. In addition to statutory requirements for amendment of this Declaration and the Bylaws of the Association, unless at least sixty-seven percent (67%) (or such higher percentage as is required by law or this Declaration) of the first mortgagees of the Units or their assigns (based upon one vote for each first mortgage owned), and of the Unit Owners (other than any sponsor, developer, or builder including the Declarant) of the Units have given their prior written approval, the Association shall not be entitled to:

1. By act or omission, seek to abandon, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed such a transfer).

2. Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium.

3. By act or omission seek to abandon or terminate the Condominium.

4. Add or amend any material provision of this Declaration or the Articles or Bylaws of the Association which establishes, provides for, governs or regulates any of the following:

a. Voting;

b. Increases in assessments for Common Expenses that raise the previously assessed amount by more than 25%, assessment liens or the priority or subordination of such liens;

c. Reserves for maintenance, repair and replacement of the Common Elements;

d. Insurance or Fidelity Bonds;

e. Rights to the use of the Common Elements;

f. Responsibility for maintenance and repair of the several portions of the Condominium;

g. The interests in the Common Elements or Limited Common Elements;

h. Convertibility of Units into Common Elements or of Common Elements into Units;

i. Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey such Owner's Unit;

j. Change the pro rata interest or obligations of any Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Elements. (The reallocation of undivided interests in and Common Expenses with respect to the Common Elements resulting from the exercise of Declarant's right to subdivide or convert a Unit hereof shall not be subject to the foregoing.)

k. Any provisions which are for the express benefit of the holders of first mortgages on the Units.

Any such addition or amendment shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Similarly, any addition or amendment to this Declaration, the Articles or the Bylaws of the Association which is made for the purpose of adding any one or more of the Units pursuant to paragraph 11 below shall not be considered material.

C. Any holder of a first mortgage on a Unit in the Condominium or such holder's designee will, upon request, be entitled to: (a) inspect the books, records and financial statements of the Condominium and current copies of this Declaration, the Bylaws of the Association and the rules and regulations of the Condominium, as the same may, from time to time, be amended or promulgated, during normal business hours; (b) receive an annual audited financial statement of the Condominium within 120 days following the end of any fiscal year of the Condominium; and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

D. Assessments for Common Expenses shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements that must be maintained, repaired or replaced on a periodic basis, and shall, when practicable, be payable in regular installments rather than by special assessments.

E. No provision of this Declaration or of the Bylaws of the Association shall be deemed to give a Unit Owner, or any other party, priority over any rights of first mortgagees of Units, or their successors in interest, pursuant to their mortgages in the case of a distribution to the Unit Owners of insurance proceeds or condemnation awards or settlements for losses to or a taking of Units and/or Common Elements. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the holder of any first mortgage on a Unit will be entitled to timely written notice of any such damage or destruction. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any first mortgage on a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition. Upon the request of the holder of a first mortgage on any Unit, the Association shall agree in writing to notify such holder, any entity servicing such mortgage, and/or any other entity having an interest in such mortgage whenever damage to the Unit covered by such mortgage exceeds $10,000.00 and whenever damage to the Common Elements exceeds $25,000.00.

F. The right of a Unit Owner to sell, transfer, or otherwise convey the Owner's Unit will not be subject to any right of first refusal or any similar restriction in favor of the Association.

G. If the owner of a first mortgage of record on a Unit or a purchaser at a mortgage foreclosure obtains title to, or comes into possession of, a Unit pursuant to the remedies provided in the mortgage or by foreclosure of the first mortgage or by deed or assignment in lieu thereof, such acquirer of title or possession and such acquirer's successors and assigns, shall acquire such title or possession free of any claims, and shall not be liable, for the share of the unpaid Common Expenses or assessments chargeable to such Unit which accrued prior to the acquisition of title or possession to such Unit by such acquirer. Such unpaid share of the Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer and such acquirer's successors and assigns.

11. Option to Add to Condominium.

Declarant shall have the option ("Option") without the consent or joinder of the Unit Owners, the Association, any holder of an interest as security for an obligation or any other person or entity, to add to the Condominium any one or more Units by subdivision or conversion of an existing Unit.

Such Option shall be subject to the terms and conditions hereinafter set forth:

A. Duration of Option. The Option will continue during the time of ownership by Declarant of the Unit or Units to be subdivided or converted.

B. Timing. The Unit or Units to be subdivided or converted may be made at different times.

C. Maximum Number of Units. The Declarant may subdivide one of the Units into two (2) Units, for a total of 8 Units for the Condominium. All of such Units will be restricted exclusively to non-residential use.

D. Units. Any Units that may be created which are added to the Condominium will be compatible with the Units originally constituting a part of the Condominium in terms of architectural style, structure type, quality of construction, principal materials employed in construction, and size.

E. Applicability of Restrictions. All restrictions in this Declaration affecting the use, occupancy, and alienation of Units will apply to Units created and added to the Condominium.

F. No Assurances. Nothing herein contained shall bind the Declarant to subdivide or to adhere to any particular plan of development or improvement for any Unit or Units. Declarant has reserved the right to subdivide or convert Units and add to the Condominium, but the Declarant is not obligated to do so.

G. Exercise of Option. Declarant may exercise its option to subdivide or convert a Unit by complying with the applicable notice requirements of the Act and by securing the execution and recording of one or more amendments or supplements to this Declaration. Such Amendment or Supplement shall allocate one vote in the Association to each Unit formed by the subdivision or conversion and shall reallocate undivided interests in the Common Elements and the percentages of the Common Expenses of the Association among the Units in proportion to their Percentage Interest set forth in the Exhibit A of such Amendment or Supplement. Contemporaneously with the filing of such Amendment or Supplement, the Declarant shall record supplemental CIC plats in accordance with the provision of the Act.

H. Assignment of Option. The Option described in this paragraph may be assigned by Declarant insofar as it affects any subdivision or conversion of a Unit or Units herein described.

12. Compliance and Remedies. Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property shall be governed by and comply with the provisions of the Act, the Declaration and By-Laws, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

A. Entitlement to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Declaration and By-Laws or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Declaration and

By-Laws, the Rules and Regulations, the Act or the decisions of the Association. However, no Owner may withhold any Assessments payable to the Association, or take (or omit) other action in violation of the Declaration, By-Laws, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

B. Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants, and/or their guests, who violate the provisions of the Governing Documents, the Rules and Regulations or the Act:

1. Commence legal action for damages or equitable relief in any court of competent jurisdiction.

2. Impose late charges of up to the greater of twenty-five dollars ($25) or fifteen percent (15%) of the amount due for each past due Assessment or installment thereof, and interest at up to the highest rate permitted by law.

3. In the event of default of more than 30 days in the payment of any Assessment or installment thereof, all remaining installments of Assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent Assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. At least fourteen (14) days written notice of the effective date of the acceleration shall be given to the defaulting Owner.

4. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.

5. Suspend the rights of any Owner or Occupant and their guests or invitees to use any Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements appurtenant to the Unit, and those portions of the Common Elements providing utility services and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to 30 days thereafter, for each violation.

6. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant, or their guests or invitees in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

7. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests or invitees, or the safety or soundness of any Unit or other part of the Property or the property of the Owners, Occupants and/or their guests or invitees, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

8. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the State of Minnesota.

9. To take any action permitted by the Act.

C. Rights to Hearing. In the case of imposition of any of the remedies authorized herein, the Board of Directors shall, upon written request of the offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board of Directors and held within thirty (30) days of receipt of the hearing request by the Board of Directors, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to timely request a hearing or to appear at the hearing then the right to a hearing shall be waived and the Board of Directors may take such action as it deems appropriate. The decision of the Board of Directors and the rules for the conduct of hearings established by the Board of Directors shall be final and binding on all parties. The Board of Director's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing. A party may be represented in any hearing by legal counsel; however, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the Board of Directors except on grounds of self-incrimination, on other grounds deemed by the Board of Directors to be appropriate. In this connection, the Board of Directors need not accept the statements of counsel as being the statements of counsel's client if the Board of Directors desires direct testimony. The parties shall be held responsible for the conduct of their counsel. Formal rules of evidence and formal court-type procedures need not be followed by the Board of Directors. The Board of Directors may consider any evidence, testimony or matter it deems to be relevant. The Board may delegate the foregoing hearing authority to a committee of three or more disinterested Owners, who shall conduct the hearing and make a recommendation to the Board regarding disposition of the matter.

D. Lien for Charges, Penalties, Etc. Any Assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board makes a written decision at or following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

E. Costs of Proceeding and Attorneys' Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

F. Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants, or guests or invitees in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

G. Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, and the Act as provided therein.

13. Special Declarant Rights. Declarant hereby reserves exclusive and unconditional authority to exercise the following Special Declarant Rights within the meaning of Section 515B.1-103 (31) of the Act for so long as its owns a Unit, or for such shorter period as may be specifically indicated:

A. Complete Improvements. To complete improvements indicated on the CIC Plat;

B. Create Units and Common Elements. To create Units, Common Elements and Limited Common Elements and subdivide or convert Unit or Units within the Condominium and to relocate boundaries between Units and to otherwise alter Units by it without need of consent of the Owners, Association, or Eligible Mortgagees;

C. Sales Facilities. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Real Estate;

D. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements;

E. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its special declarant rights;

F. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) recording of a written surrender of control of the Association by Declarant; (ii) the date which is 60 days after conveyance to Owners other than Declarant of 75% of the Units, including any Units which have then or may thereafter be added to the Condominium pursuant to paragraph 11; or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, however, not later than 60 days after conveyance of 50% of the Units, including Units which have then or may thereafter be added to the Condominium to Unit Owners other than Declarant, one-third of all of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant at a meeting of the Unit Owners to be called for such purpose;

G. Consent to Certain Amendments. As long as Declarant owns any unsold Unit, Declarant's written consent shall be required for any amendment to this Declaration, the Articles of Incorporation or the Bylaws of the Association or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under this Declaration, or the Articles of Incorporation or Bylaws of the Association.

14. Participation in Master Association. The Board of Directors of the Association shall have the power and authority, pursuant to Section 515B.2-121 of the Act, to delegate to a Master Association any of the powers conferred herein by the Act, this Declaration or the By-Laws of the Association, including but not limited to the powers described in Section 515B.3-102(a)(2) of the Act. Nothing contained in this paragraph shall be deemed to require the Association to participate in or to be subject to a Master Association.

15. Miscellaneous.

A. Right of Association to Hold Unit. Subject to the provisions of the Bylaws of the Association, the Board of Directors, acting on behalf of the Association, shall have the power to acquire, hold, lease, mortgage and convey a Unit, including the power to purchase a Unit at the foreclosure sale for unpaid assessments.

B. Remedies of Association. In the event of the failure of any Unit Owner to comply with the provisions of this Declaration, the Articles or the Bylaws of the Association, or the decisions, regulations or rules of the Association, the Association or any aggrieved Unit Owner may in addition to any other right or remedy available to the Association or such aggrieved Unit Owner, bring an action for the recovery of damages, injunctive relief or both. Suit to recover a money judgment for unpaid Common Expenses or for other amounts owing the Association may be maintained by the Association without foreclosing or waiving the lien securing the same. In the event of any such suit or action, the prevailing party shall be entitled to recover from the losing party, an amount equal to all costs, including attorney fees, incurred by such prevailing party in the preparation for and prosecution of such suit or action.

C. Condemnation of Common Elements. Subject to the provisions of the Act, the Association shall have control over any condemnation proceedings, negotiations, settlements and agreements with the condemning authority relating to the acquisition by the condemning authority of the Common Elements or any part thereof.

D. Supplemental to Law. The provisions of this Declaration shall be in addition to and supplemental to the Act and to all other provisions of law. This Condominium is not subject to an ordinance provided for in Section 515B.1-106 of the Act.

E. Definition of Terms. As used in this Declaration or in the Bylaws of the Association, any words or terms defined in the Act shall have the meaning there ascribed to them. The singular shall be deemed to include the plural wherever appropriate; and unless the context clearly indicates to the contrary, any obligation imposed shall be joint and several. The "Association" shall mean West River Business Park Condominium Owners Association, Inc., a Minnesota non-profit corporation.

F. Administration. The Unit Owners of Units in the Condominium covenant and agree that the administration of the Condominium shall be in accordance with the provisions of the Act, this Declaration, and the Bylaws of the Association.

16. Amendments. Except for amendments by Declarant pursuant to Sections 515B.2-111 and 515B.2-112(c) of the Act, this Declaration may be amended only by the approval of (i) Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association, (ii) the percentage of Eligible Mortgagees (based upon one vote per first mortgage owned) required by Section 10 as to matters prescribed by said Section and (iii) the consent of Declarant to certain amendments as provided in Section 13. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees and the Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed the date and year first above written.

Declarant:

WEST RIVER BUSINESS PARK PARTNERSHIP, LLP,
a Minnesota Limited Liability Partnership

By _____
Its: General Partner

BREMER BANK, NATIONAL ASSOCIATION,
a United States Corporation

By _____
Its SVP
Senior Vice President

STATE OF ~~MINNESOTA~~ Arizona)
) ss.
COUNTY OF Maricopa)

On this 30th day of January, 2006, before me a Notary Public within and for said County, personally appeared Ronald Morton, to me known, who being by me duly sworn, did say that he/she is the General Partner of WEST RIVER BUSINESS PARK PARTNERSHIP, LLP , the limited liability partnership named in the foregoing instrument, and that said instrument was signed on behalf of said partnership by authority of its General Partner and said General Partner Ronald Morton acknowledged said instrument to be the free act and deed of said limited liability partnership.

OFFICIAL SEAL
STEFANI LYNE JAFFE
Notary Public - State of Arizona
MARICOPA COUNTY
My comm. expires Apr. 30, 2006

_____
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF Stearns)

On this 3rd day of February, 2006, before me a Notary Public within and for said County, personally appeared Michael P. Brogan, to me known, who being by me duly sworn, did say that he/she is the SVP of BREMER BANK, NATIONAL ASSOCIATION, the corporation named in the foregoing instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said Michael P. Brogan acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public

DEBORA L. BRASCH
Notary Public–Minnesota
My Comm. Expires Jan. 31, 2010

**THIS INSTRUMENT WAS DRAFTED BY:**

Gray, Plant, Mooty, Mooty & Bennett, P.A.
Robert J. Walter
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
Telephone: (320) 252-4414

**EXHIBIT A TO DECLARATION**

**COMMON INTEREST COMMUNITY NUMBER 72**
**A CONDOMINIUM**
**WEST RIVER BUSINESS PARK CONDOMINIUMS**
**SCHEDULE OF UNITS/LEGAL DESCRIPTION OF PROPERTY/PERCENTAGE INTEREST**

Unit 1, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

15%

Unit 2, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

5%

Unit 3, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

18%

Unit 4, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12%

Unit 5, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

25%

Unit 6, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12.5%

Unit 7, Common Interest Community Number 72, a Condominium, West River Business Park Condominiums, according to the duly recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

12.5%

2/16

CD 10.20.

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1209598

Certified, Filed, and/or Recorded on

10-20-2006 at 12:43 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1209598

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: Grede Foundries, Inc.

OR

| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 9898 West Bluemound Road | Wauwatosa | WI | 53226 | USA |

| 1d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | CORP | WI | 1G02837 ☐ NONE |

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

| 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 2d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

**3. SECURED PARTY'S NAME** (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: Merrill Lynch Capital, a Division of Merrill Lynch Business Financial Services Inc., as Administrative Agent

OR

| 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 222 North LaSalle Street, 16th Floor | Chicago | IL | 60601 | USA |

4. This FINANCING STATEMENT covers the following collateral:

All assets of the Debtor, which are now or may become fixtures located on the real property described on Exhibit A attached hereto, whether now owned and existing or hereafter acquired, together with all proceeds thereof.
(Real Estate Records - Fixture Filing)

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional) ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

MN-Stearns County

536370-001d JF2

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

Corporation Service Company
2711 Centerville Rd, Ste. 400
Wilmington, DE 19808

env
✓ Corporation Service Co -
PO 2969 Springfield IL 62708

SCR 1 of 3

2
WHO

CD
10-20

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1209599

Certified, Filed, and/or Recorded on

10-20-2006 at 12:44 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1209599

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, DE 19808

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: Grede-St. Cloud, Inc.

OR

| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 5200 Foundry Circle | St. Cloud | MN | 56303 | USA |

| 1d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | CORP | MN | 8S-396 ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

| 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 2d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: Merrill Lynch Capital, a Division of Merrill Lynch Business Financial Services Inc., as Administrative Agent

OR

| 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 222 North LaSalle Street, 16th Floor | Chicago | IL | 60601 | USA |

4. This FINANCING STATEMENT covers the following collateral:

All assets of the Debtor, which are now or may become fixtures located on the real property described on Exhibit A attached hereto, whether now owned and existing or hereafter acquired, together with all proceeds thereof.
(Real Estate Records - Fixture Filing)

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

MN-Stearns County 536370-003

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

Corporation Service Company
2711 Centerville Rd. Ste. 400
Wilmington, DE 19808

SCR 1 of 3

46
18515
12A
11-7

MORTGAGE REGISTRATION TAX $18,515.00
Randy R Schreifel
STEARNS COUNTY AUDITOR
Moses S. Dubel
DEPUTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1211118
Certified, Filed, and/or Recorded on
11-07-2006 at 11:25 AM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER
1211118

# REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT

(Stearns County, Minnesota)

BY

GREDE ST. CLOUD, INC.,

AS MORTGAGOR,

TO

MERRILL LYNCH CAPITAL,
A DIVISION OF MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.,
AS AGENT FOR THE LENDERS,

AS MORTGAGEE

Dated as of October 27, 2006


env
Title Recording Services, Inc. 510824
79 Western Ave N
St. Paul, MN 55102 2685917
STEARNS A CHIC COM BASIC
MTG


THIS MORTGAGE SECURES A GUARANTY OF THE FOLLOWING LOANS: (I) REVOLVING LOANS UNDER WHICH ADVANCES, PAYMENTS AND READVANCES MAY BE MADE FROM TIME TO TIME UP TO A MAXIMUM PRINCIPAL AMOUNT OUTSTANDING AT ANY ONE TIME NOT TO EXCEED $78,000,000; AND (II) TERM LOANS IN THE AGGREGATE PRINCIPAL AMOUNT OF $27,000,000, AND SECURES ALL OTHER "MORTGAGOR'S LIABILITIES" AS DEFINED HEREIN; **PROVIDED THAT NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ENFORCEMENT OF THIS MORTGAGE IS LIMITED TO A PRINCIPAL DEBT AMOUNT OF $8,050,000 UNDER CHAPTER 287 OF MINNESOTA STATUTES.**



2685917

**REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT**
(Stearns County, Minnesota)

THIS REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT ("**Mortgage**"), made as of October 27, 2006, is made and executed by GREDE ST. CLOUD, INC., a Wisconsin corporation ("**Mortgagor**"), having its principal offices at 9898 Bluemound Road, Milwaukee, Wisconsin 53226, in favor of MERRILL LYNCH CAPITAL, a division of Merrill Lynch Business Financial Services Inc. (in its individual capacity, "**Merrill**"), having an office at 222 North LaSalle Street, 16th Floor, Chicago, Illinois 60601, as Administrative Agent (Merrill in its capacity as agent being hereinafter referred to as "**Agent**") for Lenders (as "**Lenders**" is defined in the Credit Agreement referred to below).

**RECITALS**

I. Pursuant to the terms of a certain Credit Agreement of even date herewith (said Credit Agreement, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Credit Agreement**") by and among Merrill, as a Lender and as Agent, Joint Bookrunner and Joint Lead Arranger, Lenders, and Mortgagor, Agent and Lenders have agreed to make revolving and term loans to Grede Foundries, Inc. ("**Borrower**") and extend other financial accommodations to Borrower in an aggregate principal amount not to exceed $105,000,000 (collectively, the "**Loans**"), which Loans are evidenced by one or more notes in the aggregate principal amount of $105,000,000 (said notes, together with all amendments, supplements, modifications and full or partial replacements thereof, being hereinafter referred to as the "**Notes**"), having a maturity date of October 27, 2011. The terms and provisions of the Notes and the Credit Agreement are hereby incorporated by reference in this Mortgage. The rate or rates of interest payable under the Credit Agreement may vary from time to time.

II. To induce Agent and Lenders to enter into the Credit Agreement, Mortgagor has executed and delivered to Agent a certain Guaranty of even date herewith (said Guaranty, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Guaranty**"), pursuant to which Mortgagor has guarantied all the obligations of Borrower to Agent and Lenders. This Mortgage secures the Guaranty.

III. Among other things, this Mortgage is given to secure a guaranty of a revolving credit facility and secures not only present indebtedness but also future advances, whether such future advances are obligatory or are to be made at the option of Agent or Lenders, or otherwise. The amount of indebtedness secured hereby may increase or decrease from time to time, however the principal amount of such indebtedness shall not at any time

exceed the amount of $105,000,000, plus interest thereon, and other costs, amounts and disbursements as provided herein and in the other Loan Instruments (hereinafter defined).

## GRANTING CLAUSES

Subject to the applicable limitations set forth in this instrument, to secure the payment and performance of the Guaranty and the performance and observance of all covenants and conditions contained in this Mortgage and any other documents and instruments now or hereafter executed by Mortgagor to secure the Loans or its obligations under the Guaranty (the Guaranty, the Notes, the Credit Agreement, this Mortgage, and any and all other documents and instruments now or hereafter executed and delivered in connection with the Loans, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the "**Loan Instruments**") (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as "**Mortgagor's Liabilities**"), Mortgagor does hereby convey, mortgage, warrant, assign, transfer, pledge and deliver to Agent, for the benefit of Lenders, and grant to Agent, for the benefit of Lenders, a security interest in the following described property, WITH POWER OF SALE, subject to the terms and conditions herein:

(A) The land located in Stearns County, Minnesota, legally described in attached **Exhibit A** ("**Land**");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all other personal property of every kind or nature which constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing ("**Improvements**");

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("**Appurtenances**");

(D)(i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements or Appurtenances or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (c) the alteration of the grade of any street or highway

on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein, Agent is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "**Rents**"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional permission given to Mortgagor to collect and use the Rents as provided in this Mortgage;

(F) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "**Leases**"), subject, however, to the conditional permission given in this Mortgage to Mortgagor to collect the Rents arising under the Leases as provided in this Mortgage;

(G) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses is hereinafter referred to as the "**Mortgaged Property.**"

TO HAVE AND TO HOLD, the above granted and described Mortgaged Property unto and to the use and benefit of Agent and its successors and assigns, forever;

AND MORTGAGOR, for itself, its successors and assigns, does covenant with Agent, its successors and assigns, that it is lawfully seized of the Mortgaged Property and has good right to sell and convey the same; and the Mortgaged Property is free from all encumbrances, except the Permitted Liens (as defined in the Credit Agreement), and that this Mortgage is and will remain a valid and enforceable first lien on and security interest in the Mortgaged Property, subject only to such exceptions; that Agent, its successors and assigns, shall quietly enjoy and possess the Mortgaged Property; and that Mortgagor will WARRANT AND DEFEND the title to the same against all claims whatsoever not specifically excepted in this Mortgage;

PROVIDED, HOWEVER, these presents are upon the express condition that, if, Mortgagor shall well and truly pay Mortgagor's Liabilities at the time and in the manner provided in the Loan Instruments and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Guaranty, if Mortgagor's Liabilities and the Loans have been repaid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Agent as follows:

## ARTICLE ONE
## COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Agent as follows:

1.1. **Performance under Guaranty and this Mortgage.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof and of the Guaranty.

1.2. **General Covenants and Representations.** Mortgagor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever, except for the Permitted Liens; and (b) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property, subject only to the Permitted Liens, until Mortgagor's Liabilities and the Loans have been paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated.

1.3. **Compliance with Laws and Other Restrictions.** Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and, to the extent required by the Credit Agreement, will continue to comply with, all Laws (as defined in the Credit Agreement), except to the extent permitted in the Credit Agreement.

1.4. **Taxes and Other Charges.** Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or Mortgagor's Liabilities; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any tax, assessment or other charge, in accordance with the terms of the Credit Agreement.

1.5. **Mechanic's and Other Liens.** Except as otherwise may be provided by the Credit Agreement, Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property; provided, however, that Mortgagor may in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted lien, in accordance with the terms of the Credit Agreement.

1.6. **Insurance and Condemnation.**

1.6.1. **Insurance Policies.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Agent, until the Loans and Mortgagor's Liabilities are paid in full, such policies of insurance as are required by the Credit Agreement.

1.6.2. **Adjustment of Loss; Application of Proceeds.** Except as otherwise may be provided by the Credit Agreement, Agent is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Mortgaged Property and to collect and receive the proceeds from any such policy or policies. The entire amount of such proceeds, awards or compensation shall be applied as provided in the Credit Agreement.

1.6.3. **Condemnation Awards.** Except as otherwise may be provided by the Credit Agreement, Agent shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Agent is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Agent as its attorney-in-fact for the purposes set forth in the preceding sentence. In the event that Mortgagor acquires any real estate to replace all or any portion of the Mortgaged Property which became subject to any such action or proceeding, Mortgagor shall execute and deliver to Agent a mortgage of such replacement property, which mortgage shall be in substantially the same form as this Mortgage, and Mortgagor shall deliver to Agent a survey and a title insurance policy and such other items in connection with such replacement property as Agent may reasonably require, all in form and substance satisfactory to Agent.

1.6.4. **Obligation to Repair.** If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.6.3, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged

Property to the extent that the proceeds, award or other compensation, or proceeds of the Loans, are made available to Mortgagor.

1.7. **Agent May Pay; Default Rate.** Upon Mortgagor's failure to pay any amount required to be paid by Mortgagor under any provision of this Mortgage, Agent may pay the same. Mortgagor shall pay to Agent on demand the amount so paid by Agent together with interest at a rate equal to the highest rate payable under the Credit Agreement after the occurrence of an "Event of Default" as such term is defined in the Credit Agreement (the "**Default Rate**") and the amount so paid by Agent, together with interest, shall be added to Mortgagor's Liabilities.

1.8. **Care of the Mortgaged Property.** Mortgagor shall preserve and maintain the Mortgaged Property in good working order and condition, ordinary wear and tear excepted.

1.9. **Transfer or Encumbrance of the Mortgaged Property.** Except as permitted by the Credit Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease or encumbrance of the Mortgaged Property, any part thereof, or any interest therein, without the prior written consent of Agent having been obtained.

1.10. **Further Assurances.** At any time and from time to time, upon Agent's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Agent, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Agent, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Agent may consider reasonably necessary in order to effectuate or perfect, or to continue and preserve the obligations under, this Mortgage.

1.11. **Assignment of Rents.**

(a) Mortgagor does hereby sell, assign and transfer unto Agent (i) the immediate and continuing right to receive and collect all Rents, and (ii) all Leases, together with all guarantees therefor and any renewals or extensions thereof, for the purpose of securing payment of Mortgagor's Liabilities.

(b) Mortgagor does hereby irrevocably appoint Agent its true and lawful attorney in its name, place and stead, which appointment is coupled with an interest, with or without taking possession of the Mortgaged Property, to rent, lease, sublease, let or sublet all or any portion of the Mortgaged Property to any party or parties at such rental and upon such terms, as it in its discretion may determine, and to collect all of said Rents arising from or

accruing at any time hereafter under each and all of such leases and agreements.

(c) Mortgagor represents and agrees that no Rents have been or will be paid in advance by any persons in possession of all or any portion of the Mortgaged Property for a period of more than one month and that the payment of none of the Rents to accrue for all or any portion of the Mortgaged Property has or will be waived, released, reduced or discounted, or otherwise discharged or compromised, by Mortgagor. Mortgagor waives any right of setoff against any person in possession of all or, any portion of the Mortgaged Property. Mortgagor represents that it has not assigned any of said Rents to any third party and agrees that it will not so assign any of said Rents without the prior written consent of Agent.

(d) Nothing contained herein shall be construed as constituting Agent "a mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by Agent. In the exercise of the powers herein granted to Agent, no liability shall be asserted or enforced against Agent, all such liability being expressly waived and released by Mortgagor.

(e) Although it is the intention of the parties that this assignment of Leases and Rents shall be a present assignment, it is expressly understood and agreed that, anything herein contained to the contrary notwithstanding, Agent hereby grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect all Rents and Agent shall not exercise any of the rights and powers conferred upon it herein, unless and until an Event of Default shall occur at which time such license may be revoked by Agent and Agent shall be entitled to exercise any and all such rights and powers during the continuance of such Event of Default; and nothing herein contained shall be deemed to affect or impair any rights which Agent may have under the Guaranty, the Credit Agreement, the Notes, this Mortgage, the other Loan Instruments or any other document or agreement related hereto or thereto.

(f) Mortgagor acknowledges and agrees that this assignment of leases and rents, and Agent's rights and remedies hereunder, may be enforced by Agent throughout the entire redemption period provided by applicable law following any foreclosure sale of all or any portion of the Mortgaged Property.

(g) At any time after the occurrence and during the continuance of an Event of Default, Agent, without in any way waiving such default, may:

(1) at Agent's option without notice to Mortgagor and without regard to waste, the insolvency of Mortgagor or the adequacy of the security for the Guaranty, either in person or by agent, with or without

any action or proceeding, or by a receiver appointed by a court of competent jurisdiction pursuant to Minnesota Statutes, Section 559.17, Subd. 2, and/or other applicable law, peaceably take possession of the Mortgaged Property and have, hold, manage, lease, sublease and operate the same; or

(2) Agent, without taking possession of the Mortgaged Property, may sue for or otherwise collect and receive all Rents from the Mortgaged Property to which Mortgagor would otherwise be entitled, including those past due and unpaid with full power to make from time to time all adjustments thereto, as may seem proper to Agent.

(h) Agent, or such agent or, receiver, in the exercise of the rights and powers conferred upon it by this assignment of leases and rents shall have the full power to use and apply the Rents of the Mortgaged Property to which Mortgagor would otherwise be entitled to the payment of or on account of the following in the order listed below (except as otherwise required by Minnesota Statutes, Section 559.17 or other applicable law):

(1) reasonable receiver's fees;

(2) application of tenant security deposits as required by Minnesota Statutes, Section 504B.178;

(3) payment, when due, of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for the payment of the taxes or special assessments;

(4) payment, when due, of premiums for insurance of the type required by this Mortgage, or the periodic escrow for the payment of the premiums;

(5) payment for the keeping of the covenants required of a lessor or licensor pursuant to Minnesota Statutes, Section 504B.161, subdivision 1; and

(6) all expenses for normal maintenance of the Mortgaged Property;

provided, however, that nothing herein shall prohibit the right to reinstate pursuant to Minnesota Statutes, Section 580.30, or the right to redeem granted pursuant to Minnesota Statutes, Sections 580.23 and 581.10.

(i) Any excess cash remaining after paying the expenses listed in clauses (1) through (6) above shall be applied to the payment of Mortgagor's Liabilities except as may be otherwise required by applicable law; provided that if the Mortgaged Property shall be foreclosed by Agent and sold at a subsequent foreclosure sale, then:

(1) if the Mortgaged Property shall be purchased by Agent at the foreclosure sale, the Rents shall first be applied to any deficiency amount arising from such sale and any remaining balance shall be retained by Agent for the benefit of Lenders, provided further, that if the Mortgaged Property is redeemed by Mortgagor or any party that shall have the right to redeem, any amount remaining after the payment of the deficiency balance shall be applied as a credit against the amount required to be paid to effect a redemption and any remaining excess Rents shall be retained by Mortgagor or redeeming party, as applicable, and if the Mortgaged Property is not redeemed, any remaining excess Rents at the end of such redemption shall belong to Agent for the benefit of Lenders, whether or not a deficiency exists; and

(2) if the Mortgaged Property is not purchased by Agent at the foreclosure sale, the Rents shall first be applied to any deficiency amount arising from such foreclosure sale, and the balance shall be retained by the purchaser, and if the Mortgaged Property shall be redeemed by Mortgagor or any other party entitled to redeem, any amount remaining after payment of the deficiency balance shall be applied as a credit against the amount required to be paid to effect a redemption with any remaining balance to be retained by Mortgagor, provided, if Mortgaged Property is not redeemed, then at the end of such redemption any remaining excess Rents shall be paid first to the purchaser at the foreclosure sale in an amount equal to the interest accrued upon the sale price pursuant to Minn. Stat. Section 580.23 or Section 581.10, then to Agent to the extent of any deficiency

remaining unpaid and the balance, if any, to the purchaser.

(j) Agent shall have the right, at any time and without limitation as provided in Minnesota Statutes, Section 582.03, to advance money to the receiver to pay any part or all of the items which the receiver should otherwise pay if cash were available from the Mortgaged Property and sums so advanced, with interest at the Default Rate, shall be secured hereby, or if advanced during the period of redemption shall be a part of the sum required to be paid to redeem from the sale.

1.12. **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Mortgage shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.13. **Leases Affecting Mortgaged Property.** Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. The assignment contained in Sections (E) and (F) of the Granting Clauses shall not be deemed to impose upon Agent any of the obligations or duties of the landlord or Mortgagor provided in any lease.

1.14. **Execution of Leases.** Except as permitted by the Credit Agreement, Mortgagor shall not permit any leases to be made of the Mortgaged Property, or to be modified, terminated, extended or renewed, without the prior written consent of Agent.

1.15. **Subrogation.** If Agent pays any prior lien from the proceeds of the loan secured by this Mortgage or otherwise, it shall be subrogated to the rights of the holder of such prior lien as fully as if such lien had been assigned to Agent.

## ARTICLE TWO
## DEFAULTS

2.1. **Event of Default.** The term **"Event of Default,"** wherever used in this Mortgage, shall mean any one or more of the following events:

(a) The failure by Mortgagor to keep, perform, or observe any covenant, condition or agreement on the part of Mortgagor in this Mortgage, which failure is not cured within any applicable grace or cure period provided in the Credit Agreement.

(b) The occurrence of an "Event of Default" under and as defined in the Credit Agreement or any of the other Loan Instruments.

## ARTICLE THREE
## REMEDIES

3.1. **Acceleration of Maturity.** If an Event of Default shall have occurred and is continuing, Agent may declare Mortgagor's Liabilities to be immediately due and payable, and upon such declaration Mortgagor's Liabilities shall immediately become and be due and payable without further demand or notice.

3.2. **Agent's Power of Enforcement.** If an Event of Default shall have occurred and is continuing, Agent may, either with or without entry or taking possession as provided in this Mortgage or otherwise, and without regard to whether or not Mortgagor's Liabilities shall have been accelerated, and without prejudice to the right of Agent thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (a) to enforce the obligations of Mortgagor under the Guaranty and/or any other of Mortgagor's Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage by judicial action and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; (c) to foreclose this Mortgage by advertisement with full authority and power to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple, either in one parcel or separate lots and parcels, all in accordance with and in the manner prescribed by law; such power of sale, if available, being hereby expressly granted to Agent in which event, references to "foreclosure" or "foreclosure sale" in this Mortgage shall be deemed to mean and include sales pursuant to the exercise of the power of sale granted herein; (d) as to personal property to enforce Agent's rights and remedies under the Minnesota Uniform Commercial Code, or to proceed as to both real property and personal property by foreclosure and otherwise in accordance with Agent's rights and remedies in respect of the real property; and (e) to pursue any other remedy available to it. Agent may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Agent may determine.

3.3. **Agent's Right to Enter and Take Possession, Operate and Apply Income.**

(a) If an Event of Default shall have occurred and is continuing, the Agent shall be entitled to enforce the Agent's interest in the Leases and Rents in accordance with the terms and provisions of this Mortgage, including, without limitation, Section 1.11 hereof and in addition to all rights and remedies provided therein or elsewhere herein, apply for the appointment of a receiver of the Mortgaged Property, in accordance with applicable law, without notice and without regard for the adequacy for the security for the Mortgagor's Liabilities and without regard to waste or the solvency of the Mortgagor or any other person, firm or entity liable for the payment of the Mortgagor's Liabilities.

(b) The entering upon and taking possession of the Mortgaged Property, the appointment of a receiver, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any Event of Default under this Mortgage nor in any way operate to prevent Agent from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage nor shall it in any way be deemed to constitute Agent a mortgagee-in-possession. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Mortgaged Property is in danger of being lost, materially injured or damaged or whether the Mortgaged Property is adequate to discharge Mortgagor's Liabilities secured hereby.

3.4. **Leases.** Upon the occurrence and during the continuance of an Event of Default, Agent is authorized to foreclose this Mortgage prior to or subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage.

3.5. **Purchase by Agent.** Upon any foreclosure sale, Agent may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Guaranty and any claims for interest, late charges and prepayment premiums matured and unpaid thereon, together with any other Mortgagor's Liabilities, if any, in order that there may be credited as paid on the purchase price the sum, or any part thereof, then due under the Guaranty and/or with respect to any other Mortgagor's Liabilities.

3.6. **Application of Foreclosure Sale Proceeds.** Out of the proceeds arising from the sale and foreclosure, Agent may retain all sums due under the Guaranty, together with all such sums of money as Agent shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon as provided and all costs and expenses of such foreclosure, including reasonable and lawful attorney's fees, with the balance, if any, to be paid to the persons entitled thereto by law.

3.7. **Application of Indebtedness Toward Purchase Price.** Upon any foreclosure sale, Agent may apply any or all of Mortgagor's Liabilities and any other sums due to Agent under the Guaranty and this Mortgage to the price paid by Agent at the foreclosure sale.

3.8. **Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.** To the full extent permitted by applicable law, Mortgagor hereby waives any and all rights of redemption and, in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any reinstatement, appraisement, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and

absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof and agrees that Agent or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety.

3.9. **Receiver - Agent in Possession.** If an Event of Default shall have occurred, Agent, to the extent permitted by law and without regard to waste, the solvency of Mortgagor, the value of the Mortgaged Property or the adequacy of the security for ~~the~~ indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Agent's election, to either the appointment by the court of a receiver (without the necessity of Agent posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as mortgagee in possession with the same power herein granted to a receiver and with all other rights and privileges of a mortgagee in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Agent shall be liable to account only for such rents, income and other benefits actually received by Agent, whether received pursuant to this Section 3.9 or Section 3.3. Notwithstanding the appointment of any receiver or other custodian, Agent shall be entitled as pledgee to the possession and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Agent.

3.10. **Mortgagor to Pay Mortgagor's Liabilities in Event of Default; Application of Monies by Agent.**

(a) Upon occurrence and during the continuance of an Event of Default, Agent shall be entitled to sue for and to recover judgment against Mortgagor for Mortgagor's Liabilities due and unpaid together with costs and expenses, including, without limitation, the reasonable compensation, expenses and disbursements of Agent's agents, attorneys and other representatives, either before or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Agent to recover such judgment shall not be affected by any taking of possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of

Mortgagor's Liabilities, Agent shall be entitled to enforce all other rights and remedies under the Loan Instruments.

(c) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Agent under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Agent hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until the Loans and Mortgagor's Liabilities are paid in full.

(d) Any monies collected or received by Agent under this Section 3.10 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Agent, and the balance remaining shall be applied to the payment of Mortgagor's Liabilities, in such order and manner as Agent may elect, and any surplus, after payment of all Mortgagor's Liabilities, shall be paid to Mortgagor.

3.11. **Acknowledgment of Waiver of Hearing Before Sale.** Mortgagor understands and agrees that if an Event of Default shall occur, Agent has the right, inter alia, to foreclose this Mortgage by advertisement pursuant to Minn. Stat. Chapter 580, as hereafter amended, or pursuant to any similar or replacement statute hereafter enacted; that if Agent elects to foreclose by advertisement, it may cause the Mortgaged Property, or any part thereof, to be sold at public auction; that notice of such sale must be published for six (6) successive weeks at least once a week in a newspaper of general circulation and that no personal notice is required to be served upon Mortgagor. Mortgagor further understands that upon the occurrence of an Event of Default, Agent may also elect its rights under the Uniform Commercial Code and take possession of the collateral and dispose of the same by sale or otherwise in one or more parcels provided that at least ten (10) days' prior notice of such disposition must be given, all as provided for by the Uniform Commercial Code, as hereafter amended or by any similar or replacement statute hereafter enacted. Mortgagor further understands that under the Constitution of the United States and the Constitution of the State of Minnesota it may have the right to notice and hearing before the Mortgaged Property may be sold and that the procedure for foreclosure by advertisement described above does not insure that notice will be given to Mortgagor and neither said procedure for foreclosure by advertisement nor the Uniform Commercial Code requires any hearing or other judicial proceeding. MORTGAGOR HEREBY EXPRESSLY CONSENTS AND AGREES THAT THE MORTGAGED PROPERTY MAY BE FORECLOSED BY ADVERTISEMENT AND THAT THE PERSONAL PROPERTY MAY BE DISPOSED OF PURSUANT TO THE UNIFORM COMMERCIAL CODE, ALL AS DESCRIBED ABOVE. MORTGAGOR ACKNOWLEDGES THAT IT IS REPRESENTED BY LEGAL COUNSEL; THAT BEFORE SIGNING THIS DOCUMENT THIS SECTION AND MORTGAGOR'S CONSTITUTIONAL RIGHTS WERE FULLY EXPLAINED BY SUCH

COUNSEL AND THAT MORTGAGOR UNDERSTANDS THE NATURE AND EXTENT OF THE RIGHTS WAIVED HEREBY AND THE EFFECT OF SUCH WAIVER.

3.12. **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Agent or Lenders by the Guaranty, the Notes, the Credit Agreement, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Mortgagor's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Guaranty, the Notes, the Credit Agreement or any other Loan Instrument or any instrument evidencing or securing Mortgagor's Liabilities, or now or hereafter existing at law, in equity or by statute.

## ARTICLE FOUR
## MISCELLANEOUS PROVISIONS

4.1. **Heirs, Successors and Assigns Included in Parties.** Whenever Mortgagor, Agent or Lenders are named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Agent and Lenders.

4.2. **Notices.** All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Agent shall be directed to Mortgagor or Agent, as the case may be, in the manner and at the addresses for notice set forth in the Credit Agreement.

4.3. **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.4. **Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.5. **Changes.** Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought.

4.6. **Governing Law.** Except with respect to the creation, perfection, priority and enforcement of the lien and security interest created hereunder, all of which shall be construed, interpreted, enforced and governed by the laws of the State of Minnesota, the validity and interpretation of this Mortgage shall be governed by and in accordance with the internal laws of the State of Illinois, without regard to conflicts of law principles.

4.7. **Limitation of Interest.** The provisions of the Credit Agreement regarding the payment of lawful interest are hereby incorporated herein by reference.

4.8. **Revolving Indebtedness/Maximum Principal Indebtedness Secured.** This Mortgage secures the following: (i) a guaranty of the Revolving Loans under which advances payments and readvances may be made from time to time up to a maximum principal amount outstanding at any one time not to exceed $105,000,000; and (ii) all other Mortgagor's Liabilities; **provided that notwithstanding anything to the contrary contained herein, enforcement of this Mortgage is limited to a principal debt amount of $8,050,000 (the "Maximum Principal Amount") under Chapter 287 of Minnesota Statutes. Mortgagor further acknowledges and agrees that this Mortgage secures a guaranty of any and all advances made under the Loan Instruments and secures other Mortgagor's Liabilities subject to the foregoing limitation, and shall not be deemed to secure only particular advances of the Loans.**

4.9. **Last Dollar.** Subject to the limitation set forth in Section 4.8 above, the lien of this Mortgage shall remain in effect until the last dollar of the Loans and Mortgagor's Liabilities is paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated.

4.10. **Release.** Upon full payment and satisfaction of Mortgagor's Liabilities and the termination of all obligations of Agent and Lenders under the Credit Agreement, Agent shall issue to Mortgagor an appropriate release or satisfaction in recordable form.

4.11. **Time of the Essence.** Time is of the essence with respect to this Mortgage and all the provisions hereof.

4.12. **Credit Agreement.** The Loans are governed by terms and provisions set forth in the Credit Agreement and in the event of any conflict between the terms of this Mortgage and the terms of the Credit Agreement, the terms of the Credit Agreement shall control.

4.13. **Replacement of Notes.** Any one or more of the financial institutions which are or become a party to the Credit Agreement as Lenders may from time to time be replaced and, accordingly, one or more of the Notes may from time to time be replaced, provided that the terms of the Notes following such replacement, including the principal amount evidenced thereby, shall remain the same. As the indebtedness secured by this Mortgage shall remain the same, such replacement of the Notes shall not be construed as a

novation and shall not affect, diminish or abrogate Mortgagor's liability under this Mortgage or the priority of this Mortgage.

4.14. **Business Purpose/Non-Homestead and Non-Agricultural Use.** Mortgagor represents that the Loans will be used to further the business purposes and business objectives of Borrower that no part of the Mortgaged Property comprises or will be utilized as homestead nor is in agricultural use within the meaning of any applicable law.

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IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

GREDE-ST. CLOUD, INC., a Wisconsin corporation

By _____
Print Name Bruce E. Jacobs
Its President

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

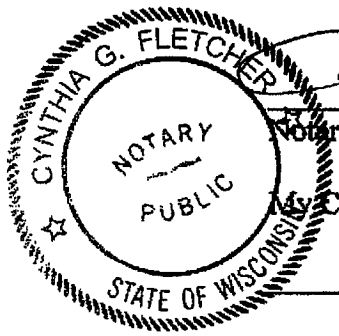
Carole K. Towne, Esq.
Goldberg, Kohn, Bell, Black,
Rosenbloom & Moritz, Ltd.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603
(312) 201-4000

## ACKNOWLEDGMENT

STATE OF Wisconsin )
) SS
COUNTY OF Milwaukee )

I, Cynthia G. Fletcher, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Bruce E. Jacobs, the President of GREDE-ST. CLOUD, INC., a Wisconsin corporation, personally known to me to be the same persons whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24th day of October, 2006.




Notary Public

My Commission Expires:

is permanent

# EXHIBIT A

## Legal Description

Tract I: Lots 3 and 4, Block 1, Foundry Addition, Stearns County, Minnesota.

Tract II: A 20.00 foot perpetual easement for watermain purposes over, under and across Lot 2, Block 1, Foundry Addition, Stearns County, Minnesota, the centerline of said easement is described as follows:

Commencing at the Southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 09 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet to the point of beginning of the centerline to be described; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet; thence North 89 degrees 50 minutes 52 seconds East, a distance of 59.87 feet and saidcenterline there terminating. The side lines of said easement are prolonged or shortened to terminate on the east line of said Lot 2 and a line which bears North 00 degrees 09 minutes 08 seconds West and South 00 degrees 09 minutes 08 seconds East from the point of termination of said centerline.

Together with a 20.00 foot perpetual easement for watermain purposes over, under and across said Lot 2. The center line of said easement is described as follows:

Commencing at the southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 09 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet to the point of beginning of the centerline to be described; thence continue North 00 degrees 09 minutes 08 seconds West, a distance of 4.92 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 118.00 feet; thence South 00 degrees 09 minutes 08 seconds East, a distance of 199.83 feet to the southerly line of said Lot 2 and said centerline there terminating. The sidelines of said easement are prolonged or shortened to terminate on a line which bears North 89 degrees 50 minutes 52 seconds East and South 89 degrees 50 minutes 52 seconds West, from the point of beginning and the southerly line of said Lot 2.

As shown in Utility Easement Agreement dated September 15, 1995 filed September 20, 1995 as Document No. 803665.

Tract III: A strip of land 18 feet in width being 9 feet on each side of the following described line: Commencing at a point on the common line between the West line of Lot 12, in First Addition to St. Cloud Industrial Park, Stearns County, Minnesota and the East line of Block 1, in Foundry Addition, said point of commencement being more particulary described as the Northeast corner of Lot 3, Block 1 ofsaid Foundry Addition; thence South 00 degrees 05 minutes 08 seconds East, on an assumed bearing along the east line of said Lot 3, Block 1, a distance of 40.60 feet; thence North 89 degrees 54 minutes 52 seconds East, parallel to the north line of said Lot 3, Block 1, a distance of 49.50 feet to the point of beginning of the centerline to be described; thence South 00 degrees 05 minutes 08 seconds East, parallel with the east line of said Lot 3, Block 1, a distance of 128.77 feet; thence 62.83 feet southwesterly along a tangential curve concave to the northwest, having a central angle of 90 degrees 00 minutes 00 seconds and a radius of 40.00 feet; thence South 89 degrees 54 minutes 52 seconds West, tangent to said curve, a distance of 9.50 feet more or less to the east line of Lot 3, Block 1, and there terminating. The side lines of said easement are prolonged or shortened to terminate on the east line of said Lot 3, Block 1.

As shown in Roadway Easement Agreement dated December 12, 2003 filed December 22, 2003 as Document No. 1094184.

Abstract.

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MORTGAGE REGISTRATION TAX # 13,915.00
STEARNS COUNTY AUDITOR
DEPUTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1211119
Certified, Filed, and/or Recorded on
11-07-2006 at 11:25 AM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1211119

# SECOND LIEN REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT

(Stearns County, Minnesota)

BY

Title Recording Services, Inc.
79 Western Ave N
St. Paul, MN 55102
STEARNS A

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2685917
CHIC COM BASIC
2ND MTG

GREDE-ST. CLOUD, INC.,

AS MORTGAGOR,

TO

DDJ CAPITAL MANAGEMENT, LLC,
A MASSACHUSETTS LIMITED LIABILITY COMPANY,
AS AGENT FOR THE LENDERS,

AS MORTGAGEE

Dated: October 27, 2006

---

THIS MORTGAGE SECURES A GUARANTY OF THE FOLLOWING LOAN: A TERM LOAN IN THE ORIGINAL PRINCIPAL AMOUNT OF $20,000,000, AND SECURES ALL OTHER "MORTGAGOR'S LIABILITIES" AS DEFINED HEREIN; **PROVIDED THAT NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ENFORCEMENT OF THIS MORTGAGE IS LIMITED TO A PRINCIPAL DEBT AMOUNT OF $6,050,000 UNDER CHAPTER 287 OF MINNESOTA STATUTES.**

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**SECOND LIEN REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT**
(Stearns County, Minnesota)

THIS SECOND LIEN REAL PROPERTY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT ("**Mortgage**"), made as of October 27, 2006, is made and executed by GREDE-ST. CLOUD, INC., a *~~Minnesota~~ corporation ("**Mortgagor**"), having its principal offices at 9898 Bluemound Road, Milwaukee, Wisconsin 53226, in favor of DDJ CAPITAL MANAGEMENT, LLC, a Massachusetts limited liability company, having an office at 130 Turner Street, Building 3, Suite 600, Waltham, Massachusetts 02453, as Administrative Agent ("**Agent**") for the Lenders (as "**Lenders**" is defined in the Credit Agreement referred to below).

*Wisconsin

**RECITALS**

I. Pursuant to the terms of a certain Second Lien Credit Agreement of even date herewith (said Credit Agreement, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Credit Agreement**") by and among Agent, as Administrative Agent, Lenders, Grede Foundries, Inc., a Wisconsin corporation ("**Borrower**"), and Mortgagor, Agent and Lenders have agreed to make a term loan to Borrower and extend other financial accommodations to Borrower in the original principal amount of $20,000,000 (the "**Loan**"). Certain repayment obligations of Borrower with respect to the Loan are evidenced by one or more notes dated of even date herewith in the aggregate principal sum of $20,000,000 (said notes, with all allonges, amendments, supplements, modifications and full or partial replacements thereof, being sometimes referred to in this Mortgage collectively as the "**Notes**"), having a maturity date of October 27, 2011. The terms and provisions of the Notes and the Credit Agreement are hereby incorporated by reference in this Mortgage. The rate or rates of interest payable under the Credit Agreement may vary from time to time. Capitalized terms not otherwise defined in this Mortgage shall have the meaning ascribed to them in the Credit Agreement.

II. To induce Agent and Lenders to enter into the Credit Agreement, Mortgagor has executed and delivered to Agent a certain Guaranty of even date herewith (said Guaranty, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Guaranty**"), pursuant to which Mortgagor has guarantied all the obligations of Borrower to Agent and Lenders. This Mortgage secures the Guaranty.

III. As security for Mortgagor's Liabilities (as hereinafter defined) and as a condition precedent to the extension of the Loan by Agent and the Lenders to Borrower, Mortgagor has agreed to execute and deliver this Mortgage to Agent and the Lenders.

## GRANTING CLAUSES

Subject to the applicable limitations set forth in this instrument, to secure the payment and performance of the Guaranty and the performance and observance of all covenants and conditions contained in this Mortgage and any other documents and instruments now or hereafter executed by Mortgagor to secure the Loan or its obligations under the Guaranty (the Guaranty, the Notes, the Credit Agreement, this Mortgage, and any and all other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the **"Loan Instruments"**) (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as **"Mortgagor's Liabilities"**), Mortgagor does hereby convey, mortgage, warrant, assign, transfer, pledge and deliver to Agent, for the benefit of Lenders, and grant to Agent, for the benefit of Lenders, a security interest in the following described property, WITH POWER OF SALE, subject to the terms and conditions herein:

(A) The land located in Stearns County, Minnesota, legally described in attached **Exhibit A** (**"Land"**);

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all other personal property of every kind or nature which constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing (**"Improvements"**);

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired (**"Appurtenances"**);

(D)(i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements or Appurtenances or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein, Agent is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "**Rents**"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional permission given to Mortgagor to collect and use the Rents as provided in this Mortgage;

(F) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "**Leases**"), subject, however, to the conditional permission given in this Mortgage to Mortgagor to collect the Rents arising under the Leases as provided in this Mortgage;

(G) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses is hereinafter referred to as the "**Mortgaged Property.**"

TO HAVE AND TO HOLD, the above granted and described Mortgaged Property unto and to the use and benefit of Agent and its successors and assigns, forever;

AND MORTGAGOR, for itself, its successors and assigns, does covenant with Agent, its successors and assigns, that it is lawfully seized of the Mortgaged Property and has good right to sell and convey the same; and the Mortgaged Property is free from all encumbrances, except the Permitted Liens (as defined in the Credit Agreement), including, without limitation the Senior Loan Documents (as such term is hereinafter defined), and that this Mortgage is and will remain a valid and enforceable second lien on and security interest in the Mortgaged Property, subject only to such exceptions; that Agent, its successors and assigns, shall quietly enjoy and possess the Mortgaged Property; and that Mortgagor will WARRANT AND DEFEND the title to the same against all claims whatsoever not specifically excepted in this Mortgage;

PROVIDED, HOWEVER, these presents are upon the express condition that, if, Mortgagor shall well and truly pay Mortgagor's Liabilities at the time and in the manner provided in the Loan Instruments and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Guaranty, if Mortgagor's Liabilities and the Loan have been repaid in full and all obligations of Agent and Lenders under the Credit

Agreement have been terminated, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Agent as follows:

## ARTICLE ONE
## COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Agent as follows:

1.1. **Performance under Guaranty and this Mortgage.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof and of the Guaranty.

1.2. **General Covenants and Representations.** Mortgagor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever, except for the Permitted Liens, including, without limitation the Senior Loan Documents; and (b) Mortgagor will maintain and preserve the lien of this Mortgage as a second lien on the Mortgaged Property, subject only to the Permitted Liens, including, without limitation the Senior Loan Documents, until Mortgagor's Liabilities and the Loan have been paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated.

1.3. **Compliance with Laws and Other Restrictions.** Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and, to the extent required by the Credit Agreement, will continue to comply with, all Laws (as defined in the Credit Agreement), except to the extent permitted in the Credit Agreement.

1.4. **Taxes and Other Charges.** Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or Mortgagor's Liabilities; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any tax, assessment or other charge, in accordance with the terms of the Credit Agreement.

1.5. **Mechanic's and Other Liens.** Except as otherwise may be provided by the Credit Agreement, Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property; provided, however, that Mortgagor may in good faith, by appropriate proceedings, contest the validity,

applicability or amount of any asserted lien, in accordance with the terms of the Credit Agreement.

1.6. **Insurance and Condemnation.**

1.6.1. **Insurance Policies.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Agent, until the Loan and Mortgagor's Liabilities are paid in full, such policies of insurance as are required by the Credit Agreement.

1.6.2. **Adjustment of Loss; Application of Proceeds.** Except as otherwise may be provided by the Credit Agreement, Agent is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Mortgaged Property and to collect and receive the proceeds from any such policy or policies. The entire amount of such proceeds, awards or compensation shall be applied as provided in the Credit Agreement.

1.6.3. **Condemnation Awards.** Except as otherwise may be provided by the Credit Agreement, Agent shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Agent is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Agent as its attorney-in-fact for the purposes set forth in the preceding sentence. In the event that Mortgagor acquires any real estate to replace all or any portion of the Mortgaged Property which became subject to any such action or proceeding, Mortgagor shall execute and deliver to Agent a mortgage of such replacement property, which mortgage shall be in substantially the same form as this Mortgage, and Mortgagor shall deliver to Agent a survey and a title insurance policy and such other items in connection with such replacement property as Agent may reasonably require, all in form and substance satisfactory to Agent.

1.6.4. **Obligation to Repair.** If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.6.3, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged Property to the extent that the proceeds, award or other compensation, or proceeds of the Loan, are made available to Mortgagor.

1.7. **Agent May Pay; Default Rate.** Upon Mortgagor's failure to pay any amount required to be paid by Mortgagor under any provision of this Mortgage, Agent may pay the same. Mortgagor shall pay to Agent on demand the amount so paid by Agent together with interest at a rate equal to the highest rate payable under the Credit Agreement after the occurrence of an "Event of Default" as such term is defined in the Credit Agreement (the "**Default**

**Rate**") and the amount so paid by Agent, together with interest, shall be added to Mortgagor's Liabilities.

1.8. **Care of the Mortgaged Property**. Mortgagor shall preserve and maintain the Mortgaged Property in good working order and condition, ordinary wear and tear excepted.

1.9. **Transfer or Encumbrance of the Mortgaged Property**. Except as permitted by the Credit Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease or encumbrance of the Mortgaged Property, any part thereof, or any interest therein, without the prior written consent of Agent having been obtained.

1.10. **Further Assurances**. At any time and from time to time, upon Agent's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Agent, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Agent, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Agent may consider reasonably necessary in order to effectuate or perfect, or to continue and preserve the obligations under, this Mortgage.

1.11. **Assignment of Rents.**

(a) Mortgagor does hereby sell, assign and transfer unto Agent (i) the immediate and continuing right to receive and collect all Rents, and (ii) all Leases, together with all guarantees therefor and any renewals or extensions thereof, for the purpose of securing payment of Mortgagor's Liabilities.

(b) Mortgagor does hereby irrevocably appoint Agent its true and lawful attorney in its name, place and stead, which appointment is coupled with an interest, with or without taking possession of the Mortgaged Property, to rent, lease, sublease, let or sublet all or any portion of the Mortgaged Property to any party or parties at such rental and upon such terms, as it in its discretion may determine, and to collect all of said Rents arising from or accruing at any time hereafter under each and all of such leases and agreements.

(c) Mortgagor represents and agrees that no Rents have been or will be paid in advance by any persons in possession of all or any portion of the Mortgaged Property for a period of more than one month and that the payment of none of the Rents to accrue for all or any portion of the Mortgaged Property has or will be waived, released, reduced or discounted, or otherwise discharged or compromised, by Mortgagor. Mortgagor waives any right of setoff against any person in possession of all or, any portion of the Mortgaged Property. Mortgagor represents that it has not assigned any of said Rents to any third party and agrees that it will not so assign any of said Rents without the prior written consent of Agent.

(d) Nothing contained herein shall be construed as constituting Agent "a mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by Agent. In the exercise of the powers herein granted to Agent, no liability shall be asserted or enforced against Agent, all such liability being expressly waived and released by Mortgagor.

(e) Although it is the intention of the parties that this assignment of Leases and Rents shall be a present assignment, it is expressly understood and agreed that, anything herein contained to the contrary notwithstanding, Agent hereby grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect all Rents and Agent shall not exercise any of the rights and powers conferred upon it herein, unless and until an Event of Default shall occur at which time such license may be revoked by Agent and Agent shall be entitled to exercise any and all such rights and powers during the continuance of such Event of Default; and nothing herein contained shall be deemed to affect or impair any rights which Agent may have under the Guaranty, the Credit Agreement, the Notes, this Mortgage, the other Loan Instruments or any other document or agreement related hereto or thereto.

(f) Mortgagor acknowledges and agrees that this assignment of leases and rents, and Agent's rights and remedies hereunder, may be enforced by Agent throughout the entire redemption period provided by applicable law following any foreclosure sale of all or any portion of the Mortgaged Property.

(g) At any time after the occurrence and during the continuance of an Event of Default, Agent, without in any way waiving such default, may:

(1) at Agent's option without notice to Mortgagor and without regard to waste, the insolvency of Mortgagor or the adequacy of the security for the Guaranty, either in person or by agent, with or without any action or proceeding, or by a receiver appointed by a court of competent jurisdiction pursuant to Minnesota Statutes, Section 559.17, Subd. 2, and/or other applicable law, peaceably take possession of the Mortgaged Property and have, hold, manage, lease, sublease and operate the same; or

(2) Agent, without taking possession of the Mortgaged Property, may sue for or otherwise collect and receive all Rents from the Mortgaged Property to which Mortgagor would otherwise be entitled, including those past due and unpaid with full power to make from time to time all adjustments thereto, as may seem proper to Agent.

(h) Agent, or such agent or, receiver, in the exercise of the rights and powers conferred upon it by this assignment of leases and rents shall have the full power to use and apply the Rents of the Mortgaged Property to which Mortgagor would otherwise be entitled to the payment of or on account of the following in the order listed below (except as otherwise required by Minnesota Statutes, Section 559.17 or other applicable law):

(1) reasonable receiver's fees;

(2) application of tenant security deposits as required by Minnesota Statutes, Section 504B.178;

(3) payment, when due, of prior or current real estate taxes or special assessments with respect to the Mortgaged Property, or the periodic escrow for the payment of the taxes or special assessments;

(4) payment, when due, of premiums for insurance of the type required by this Mortgage, or the periodic escrow for the payment of the premiums;

(5) payment for the keeping of the covenants required of a lessor or licensor pursuant to Minnesota Statutes, Section 504B.161, subdivision 1; and

(6) all expenses for normal maintenance of the Mortgaged Property;

provided, however, that nothing herein shall prohibit the right to reinstate pursuant to Minnesota Statutes, Section 580.30, or the right to redeem granted pursuant to Minnesota Statutes, Sections 580.23 and 581.10.

(i) Any excess cash remaining after paying the expenses listed in clauses (1) through (6) above shall be applied to the payment of Mortgagor's Liabilities except as may be otherwise required by applicable law; provided that if the Mortgaged Property shall be foreclosed by Agent and sold at a subsequent foreclosure sale, then:

(1) if the Mortgaged Property shall be purchased by Agent at the foreclosure sale, the Rents shall first be applied to any deficiency amount arising from such sale and any remaining balance shall be retained by Agent for the benefit of Lenders, provided further, that if the Mortgaged Property is redeemed by Mortgagor or any party that shall have the right to redeem, any amount remaining after the payment of the deficiency balance shall be applied as a

credit against the amount required to be paid to effect a redemption and any remaining excess Rents shall be retained by Mortgagor or redeeming party, as applicable, and if the Mortgaged Property is not redeemed, any remaining excess Rents at the end of such redemption shall belong to Agent for the benefit of Lenders, whether or not a deficiency exists; and

(2) if the Mortgaged Property is not purchased by Agent at the foreclosure sale, the Rents shall first be applied to any deficiency amount arising from such foreclosure sale, and the balance shall be retained by the purchaser, and if the Mortgaged Property shall be redeemed by Mortgagor or any other party entitled to redeem, any amount remaining after payment of the deficiency balance shall be applied as a credit against the amount required to be paid to effect a redemption with any remaining balance to be retained by Mortgagor, provided, if Mortgaged Property is not redeemed, then at the end of such redemption any remaining excess Rents shall be paid first to the purchaser at the foreclosure sale in an amount equal to the interest accrued upon the sale price pursuant to Minn. Stat. Section 580.23 or Section 581.10, then to Agent to the extent of any deficiency remaining unpaid and the balance, if any, to the purchaser.

(j) Agent shall have the right, at any time and without limitation as provided in Minnesota Statutes, Section 582.03, to advance money to the receiver to pay any part or all of the items which the receiver should otherwise pay if cash were available from the Mortgaged Property and sums so advanced, with interest at the Default Rate, shall be secured hereby, or if advanced during the period of redemption shall be a part of the sum required to be paid to redeem from the sale.

1.12. **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Mortgage shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.13. **Leases Affecting Mortgaged Property.** Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. The assignment contained in Sections (E) and (F) of the Granting Clauses shall not be deemed to impose upon Agent any of the obligations or duties of the landlord or Mortgagor provided in any lease.

1.14. **Execution of Leases.** Except as permitted by the Credit Agreement, Mortgagor shall not permit any leases to be made of the Mortgaged Property, or to be modified, terminated, extended or renewed, without the prior written consent of Agent.

1.15. **Subrogation.** If Agent pays any prior lien from the proceeds of the loan secured by this Mortgage or otherwise, it shall be subrogated to the rights of the holder of such prior lien as fully as if such lien had been assigned to Agent.

## ARTICLE TWO
## DEFAULTS

2.1. **Event of Default.** The term **"Event of Default,"** wherever used in this Mortgage, shall mean any one or more of the following events:

(a) The failure by Mortgagor to keep, perform, or observe any covenant, condition or agreement on the part of Mortgagor in this Mortgage, which failure is not cured within any applicable grace or cure period provided in the Credit Agreement.

(b) The occurrence of an "Event of Default" under and as defined in the Credit Agreement or any of the other Loan Instruments.

## ARTICLE THREE
## REMEDIES

3.1. **Acceleration of Maturity.** If an Event of Default shall have occurred and is continuing, Agent may declare Mortgagor's Liabilities to be immediately due and payable, and upon such declaration Mortgagor's Liabilities shall immediately become and be due and payable without further demand or notice.

3.2. **Agent's Power of Enforcement.** If an Event of Default shall have occurred and is continuing, Agent may, either with or without entry or taking possession as provided in this Mortgage or otherwise, and without regard to whether or not Mortgagor's Liabilities shall have been accelerated, and without prejudice to the right of Agent thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any appropriate action or proceeding: (a) to enforce the obligations of Mortgagor under the Guaranty and/or any other of Mortgagor's Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage by judicial action and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; (c) to foreclose this Mortgage by advertisement with full authority and power to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple, either in one parcel or separate lots and parcels, all in accordance with and in the manner prescribed by law; such power of sale, if available, being hereby expressly

granted to Agent in which event, references to "foreclosure" or "foreclosure sale" in this Mortgage shall be deemed to mean and include sales pursuant to the exercise of the power of sale granted herein; (d) as to personal property to enforce Agent's rights and remedies under the Minnesota Uniform Commercial Code, or to proceed as to both real property and personal property by foreclosure and otherwise in accordance with Agent's rights and remedies in respect of the real property; and (e) to pursue any other remedy available to it. Agent may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Agent may determine.

3.3. **Agent's Right to Enter and Take Possession, Operate and Apply Income.**

(a) If an Event of Default shall have occurred and is continuing, the Agent shall be entitled to enforce the Agent's interest in the Leases and Rents in accordance with the terms and provisions of this Mortgage, including, without limitation, Section 1.11 hereof and in addition to all rights and remedies provided therein or elsewhere herein, apply for the appointment of a receiver of the Mortgaged Property, in accordance with applicable law, without notice and without regard for the adequacy for the security for the Mortgagor's Liabilities and without regard to waste or the solvency of the Mortgagor or any other person, firm or entity liable for the payment of the Mortgagor's Liabilities.

(b) The entering upon and taking possession of the Mortgaged Property, the appointment of a receiver, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any Event of Default under this Mortgage nor in any way operate to prevent Agent from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage nor shall it in any way be deemed to constitute Agent a mortgagee-in-possession. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Mortgaged Property is in danger of being lost, materially injured or damaged or whether the Mortgaged Property is adequate to discharge Mortgagor's Liabilities secured hereby.

3.4. **Leases.** Upon the occurrence and during the continuance of an Event of Default, Agent is authorized to foreclose this Mortgage prior to or subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage.

3.5. **Purchase by Agent.** Upon any foreclosure sale, Agent may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Guaranty and any claims for interest, late charges and prepayment premiums matured and unpaid thereon, together with any other Mortgagor's Liabilities, if any, in order that there may be credited as paid on the purchase price

the sum, or any part thereof, then due under the Guaranty and/or with respect to any other Mortgagor's Liabilities.

3.6. **Application of Foreclosure Sale Proceeds.** Out of the proceeds arising from the sale and foreclosure, Agent may retain all sums due under the Guaranty, together with all such sums of money as Agent shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon as provided and all costs and expenses of such foreclosure, including reasonable and lawful attorney's fees, with the balance, if any, to be paid to the persons entitled thereto by law.

3.7. **Application of Indebtedness Toward Purchase Price.** Upon any foreclosure sale, Agent may apply any or all of Mortgagor's Liabilities and any other sums due to Agent under the Guaranty and this Mortgage to the price paid by Agent at the foreclosure sale.

3.8. **Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws.** To the full extent permitted by applicable law, Mortgagor hereby waives any and all rights of redemption and, in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any reinstatement, appraisement, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof and agrees that Agent or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety.

3.9. **Receiver - Agent in Possession.** If an Event of Default shall have occurred, Agent, to the extent permitted by law and without regard to waste, the solvency of Mortgagor, the value of the Mortgaged Property or the adequacy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Agent's election, to either the appointment by the court of a receiver (without the necessity of Agent posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as mortgagee in possession with the same power herein granted to a receiver and with all other rights and privileges of a mortgagee in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Agent shall be liable to account only for such rents, income and other benefits actually received by Agent, whether received pursuant to this Section 3.9 or Section 3.3. Notwithstanding the appointment of any receiver or other custodian, Agent shall be entitled as

pledgee to the possession and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Agent.

3.10. **Mortgagor to Pay Mortgagor's Liabilities in Event of Default; Application of Monies by Agent.**

(a) Upon occurrence and during the continuance of an Event of Default, Agent shall be entitled to sue for and to recover judgment against Mortgagor for Mortgagor's Liabilities due and unpaid together with costs and expenses, including, without limitation, the reasonable compensation, expenses and disbursements of Agent's agents, attorneys and other representatives, either before or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Agent to recover such judgment shall not be affected by any taking of possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of Mortgagor's Liabilities, Agent shall be entitled to enforce all other rights and remedies under the Loan Instruments.

(c) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Agent under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Agent hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until the Loan and Mortgagor's Liabilities are paid in full.

(d) Any monies collected or received by Agent under this Section 3.10 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Agent, and the balance remaining shall be applied to the payment of Mortgagor's Liabilities, in such order and manner as Agent may elect, and any surplus, after payment of all Mortgagor's Liabilities, shall be paid to Mortgagor.

3.11. **Acknowledgment of Waiver of Hearing Before Sale.** Mortgagor understands and agrees that if an Event of Default shall occur, Agent has the right, inter alia, to foreclose this Mortgage by advertisement pursuant to Minn. Stat. Chapter 580, as hereafter amended, or pursuant to any similar or replacement statute hereafter enacted; that if Agent elects to foreclose by advertisement, it may cause the Mortgaged Property, or any part thereof, to be sold at public auction; that notice of such sale must be published for six (6) successive weeks at least once a week in a newspaper of general circulation and that no personal notice is required to be served upon Mortgagor. Mortgagor further understands that upon the occurrence of an Event

of Default, Agent may also elect its rights under the Uniform Commercial Code and take possession of the collateral and dispose of the same by sale or otherwise in one or more parcels provided that at least ten (10) days' prior notice of such disposition must be given, all as provided for by the Uniform Commercial Code, as hereafter amended or by any similar or replacement statute hereafter enacted. Mortgagor further understands that under the Constitution of the United States and the Constitution of the State of Minnesota it may have the right to notice and hearing before the Mortgaged Property may be sold and that the procedure for foreclosure by advertisement described above does not insure that notice will be given to Mortgagor and neither said procedure for foreclosure by advertisement nor the Uniform Commercial Code requires any hearing or other judicial proceeding. MORTGAGOR HEREBY EXPRESSLY CONSENTS AND AGREES THAT THE MORTGAGED PROPERTY MAY BE FORECLOSED BY ADVERTISEMENT AND THAT THE PERSONAL PROPERTY MAY BE DISPOSED OF PURSUANT TO THE UNIFORM COMMERCIAL CODE, ALL AS DESCRIBED ABOVE. MORTGAGOR ACKNOWLEDGES THAT IT IS REPRESENTED BY LEGAL COUNSEL; THAT BEFORE SIGNING THIS DOCUMENT THIS SECTION AND MORTGAGOR'S CONSTITUTIONAL RIGHTS WERE FULLY EXPLAINED BY SUCH COUNSEL AND THAT MORTGAGOR UNDERSTANDS THE NATURE AND EXTENT OF THE RIGHTS WAIVED HEREBY AND THE EFFECT OF SUCH WAIVER.

3.12. **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Agent or Lenders by the Guaranty, the Notes, the Credit Agreement, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Mortgagor's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Guaranty, the Notes, the Credit Agreement or any other Loan Instrument or any instrument evidencing or securing Mortgagor's Liabilities, or now or hereafter existing at law, in equity or by statute.

## ARTICLE FOUR
## MISCELLANEOUS PROVISIONS

4.1. **Subordination of Mortgage.**

(A) Regardless of the order of their filing or recording, this Mortgage is subject and subordinate in all respects to that certain Real Property Mortgage and Assignment of Leases and Rents, dated of even date herewith ("**Senior Mortgage**"), granted by Mortgagor to Merrill Lynch Capital, a division of Merrill Lynch Business Financial Services Inc., as Administrative Agent ("**Senior Lien Agent**"), to be recorded in the Recorder's Office of Stearns County, Minnesota. Accordingly, all of the liens, security interests, terms, covenants and conditions of this Mortgage shall at all times be wholly subordinate to: (a) the liens, security interests, terms, covenants and conditions of the Senior Mortgage (as the same may be extended, amended or modified from time to time) and (b) any and all advances (whether or not obligatory) advanced or incurred in accordance with any of the terms, covenants, and conditions of the Senior Mortgage or the Senior Credit Agreement (as hereinafter defined), and (c) all amounts due

to Senior Lien Agent under that certain Credit Agreement dated of even date herewith by among Senior Lien Agent, the financial institutions party thereto from time to time and Mortgagor (the "**Senior Credit Agreement**") and all of the other loan documents executed and delivered by the Mortgagor pursuant to or in connection with the Senior Mortgage and the Senior Credit Agreement (the Senior Mortgage, Senior Agreement and all such other loan documents executed in connection with the Senior Mortgage and the Senior Credit Agreement are collectively referred to herein as the "**Senior Loan Documents**"). The specific and controlling terms of this subordination are set forth in the Intercreditor Agreement dated of even date herewith executed and delivered by and among Agent, Senior Lien Agent and Mortgagor (the "**Intercreditor Agreement**"). Reference is hereby made to the Intercreditor Agreement for a fuller statement of the terms and provisions controlling the subordination of this Mortgage to the Senior Mortgage and other Senior Loan Documents.

(B) Mortgagor shall faithfully and fully observe and perform each and every term, covenant and condition of the Senior Loan Documents; keep the Senior Loan Documents in good standing and free of any default, condition or event which with the giving of notice or lapse of time, or both, would constitute a default thereunder; except as permitted under the terms of the Intercreditor Agreement, not make, enter into or acquiesce in any agreement with the Senior Lien Agent or other holder of the Senior Loan Documents which in any way shall modify, alter or extend any term or condition of the Senior Loan Documents; promptly give notice to Agent of any notices received by the Mortgagor from the Senior Lien Agent or other holder of the Senior Loan Documents relative to any default or delinquency under the Senior Loan Documents. In the event that Mortgagor shall fail to pay any installment of indebtedness due under the Senior Loan Documents on or before the date the same is due and payable, Agent shall have the right (but shall not be obligated) to make any such payment directly to the Senior Lien Agent or other holder of such Senior Loan Documents and any sums so advanced shall be and become a part of the Borrower's Liabilities. In the event the Mortgagor defaults under the any of the Senior Loan Documents, Agent may (but shall not be required to) pay or advance any sum for the purpose of curing any default under the Senior Loan Documents and any sums so advanced shall be and become a part of the Borrower's Liabilities. The curing by Agent of any default under the Senior Loan Documents shall not constitute the curing of the default hereunder which occurred by virtue of the default under such Senior Loan Documents. The Mortgagor acknowledges and agrees that in the event it breaches the covenants contained in this Section 4.1, the same shall be an Event of Default under this Mortgage and in such event, Agent shall have the right to exercise those remedies provided for herein and in the Credit Agreement.

4.2. **Heirs, Successors and Assigns Included in Parties.** Whenever Mortgagor, Agent or Lenders are named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Agent and Lenders.

4.3. **Notices.** All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Agent

shall be directed to Mortgagor or Agent, as the case may be, in the manner and at the addresses for notice set forth in the Credit Agreement.

4.4. **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.5. **Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.6. **Changes.** Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought.

4.7. **Governing Law.** Except with respect to the creation, perfection, priority and enforcement of the lien and security interest created hereunder, all of which shall be construed, interpreted, enforced and governed by the laws of the State of Minnesota, the validity and interpretation of this Mortgage shall be governed by and in accordance with the internal laws of the State of Illinois, without regard to conflicts of law principles.

4.8. **Limitation of Interest.** The provisions of the Credit Agreement regarding the payment of lawful interest are hereby incorporated herein by reference.

4.9. **Maximum Principal Indebtedness Secured.** This Mortgage secures the Loan and all other Mortgagor's Liabilities; **provided that notwithstanding anything to the contrary contained herein, enforcement of this Mortgage is limited to a principal debt amount of $6,050,000 (the "Maximum Principal Amount") under Chapter 287 of Minnesota Statutes. Mortgagor further acknowledges and agrees that this Mortgage secures the Loan and other Mortgagor's Liabilities subject to the foregoing limitation, and shall not be deemed to secure only particular advances of the Loan.**

4.10. **Last Dollar.** Subject to the limitation set forth in Section 4.8 above, the lien of this Mortgage shall remain in effect until the last dollar of the Loan and Mortgagor's Liabilities is paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated.

4.11. **Release.** Upon full payment and satisfaction of Mortgagor's Liabilities and the termination of all obligations of Agent and Lenders under the Credit Agreement, Agent shall issue to Mortgagor an appropriate release or satisfaction in recordable form.

4.12. **Time of the Essence.** Time is of the essence with respect to this Mortgage and all the provisions hereof.

4.13. **Credit Agreement.** The Loan is governed by terms and provisions set forth in the Credit Agreement and in the event of any conflict between the terms of this Mortgage and the terms of the Credit Agreement, the terms of the Credit Agreement shall control.

4.14. **Replacement of Notes.** Any one or more of the financial institutions which are or become a party to the Credit Agreement as Lenders may from time to time be replaced and, accordingly, one or more of the Notes may from time to time be replaced, provided that the terms of the Notes following such replacement, including the principal amount evidenced thereby, shall remain the same. As the indebtedness secured by this Mortgage shall remain the same, such replacement of the Notes shall not be construed as a novation and shall not affect, diminish or abrogate Mortgagor's liability under this Mortgage or the priority of this Mortgage.

4.15. **Business Purpose/Non-Homestead and Non-Agricultural Use.** Mortgagor represents that the Loan will be used to further the business purposes and business objectives of Borrower that no part of the Mortgaged Property comprises or will be utilized as homestead nor is in agricultural use within the meaning of any applicable law.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

GREDE-ST. CLOUD, INC., a Wisconsin corporation

By: _____
Print Name: Bruce E. Jacobs
Its: President

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Michelle M. McAtee, Esq.
Jenner & Block LLP
330 North Wabash Avenue
Chicago, Illinois 60611

## ACKNOWLEDGEMENT

STATE OF Wisconsin )
) SS
COUNTY OF Milwaukee )

I, Cynthia G. Fletcher, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Bruce E. Jacobs, the President of GREDE-ST. CLOUD, INC., a Wisconsin corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24th day of October, 2006.

CYNTHIA G. FLETCHER NOTARY PUBLIC STATE OF WISCONSIN

Notary Public

My Commission Expires: is permanent

# EXHIBIT A

## Legal Description

Tract I: Lots 3 and 4, Block 1, Foundry Addition, Stearns County, Minnesota.

Tract II: A 20.00 foot perpetual easement for watermain purposes over, under and across Lot 2, Block 1, Foundry Addition, Stearns County, Minnesota, the centerline of said easement is described as follows:

Commencing at the Southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 09 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet to the point of beginning of the centerline to be described; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet; thence North 89 degrees 50 minutes 52 seconds East, a distance of 59.87 feet and saidcenterline there terminating. The side lines of said easement are prolonged or shortened to terminate on the east line of said Lot 2 and a line which bears North 00 degrees 09 minutes 08 seconds West and South 00 degrees 09 minutes 08 seconds East from the point of termination of said centerline.

Together with a 20.00 foot perpetual easement for watermain purposes over, under and across said Lot 2. The center line of said easement is described as follows:

Commencing at the southeast corner of said Lot 2; thence on an assumed bearing of North 00 degrees 09 minutes 08 seconds West, along the east line of said Lot 2, a distance of 12.96 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, a distance of 191.57 feet to the point of beginning of the centerline to be described; thence continue North 00 degrees 09 minutes 08 seconds West, a distance of 4.92 feet; thence South 89 degrees 50 minutes 52 seconds West, a distance of 113.00 feet; thence South 00 degrees 09 minutes 08 seconds East, a distance of 199.83 feet to the southerly line of said Lot 2 and said centerline there terminating. The sidelines of said easement are prolonged or shortened to terminate on a line which bears North 89 degrees 50 minutes 52 seconds East and South 89 degrees 50 minutes 52 seconds West, from the point of beginning and the southerly line of said Lot 2.

As shown in Utility Easement Agreement dated September 15, 1995 filed September 20, 1995 as Document No. 803665.

Tract III: A strip of land 18 feet in width being 9 feet on each side of the following described line: Commencing at a point on the common line between the West line of Lot 12, in First Addition to St. Cloud Industrial Park, Stearns County, Minnesota and the East line of Block 1, in Foundry Addition, said point of commencement being more particulary described as the Northeast corner of Lot 3, Block 1 ofsaid Foundry Addition; thence South 00 degrees 05 minutes 08 seconds East, on an assumed bearing along the east line of said Lot 3, Block 1, a distance of 40.00 feet; thence North 89 degrees 54 minutes 52 seconds East, parallel to the north line of said Lot 3, Block 1, a distance of 49.50 feet to the point of beginning of the centerline to be described; thence South 00 degrees 05 minutes 08 seconds East, parallel with the east line of said Lot 3, Block 1, a distance of 128.77 feet; thence 62.83 feet southwesterly along a tangential curve concave to the northwest, having a central angle of 90 degrees 00 minutes 00 seconds and a radius of 40.00 feet; thence South 89 degrees 54 minutes 52 seconds West, tangent to said curve, a distance of 9.50 feet more or less to the east line of Lot 3, Block 1, and there terminating. The side lines of said easement are prolonged or shortened to terminate on the east line of said Lot 3, Block 1.

As shown in Roadway Easement Agreement dated December 12, 2003 filed December 22, 2003 as Document No. 1094184.

Abstract.

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[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1211121

Certified, Filed, and/or Recorded on

11-07-2006 at 11:25 AM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1211121

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

MICHELLE M. MCATEE, ESQ.
JENNER & BLOCK LLP
ONE IBM PLAZA
CHICAGO, IL 60611

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: GREDE ST. CLOUD, INC.

OR

| 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 9898 BLUEMOUND ROAD | MILWAUKEE | WI | 53226 | USA |

| 1d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | CORPORATION | WISCONSIN | 8S-396 ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

| 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 2d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: DDJ CAPITAL MANAGEMENT, LLC, AS ADMINISTRATIVE AGENT

OR

| 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 130 TURNER ST., BLDG 3, SUITE 600 | WALTHAM | MA | 02453 | USA |

4. This FINANCING STATEMENT covers the following collateral:

ALL OF DEBTOR'S NOW OWNED AND HEREAFTER ACQUIRED PROPERTY, AS MORE FULLY DESCRIBED ON RIDER A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF, AND LOCATED ON THE REAL ESTATE DESCRIBED ON EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF, AND ALL ACCESSIONS TO, SUBSTITUTIONS FOR AND REPLACEMENTS, PRODUCTS AND PROCEEDS OF ALL OF THE FOREGOING.

THIS STATEMENT IS TO BE FILED IN THE REAL ESTATE RECORDS OF STEARNS COUNTY, MINNESOTA.

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☑ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

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SCR 1 of 6

1-8
1-9 LHW

Transfer entered
Date 1/9/07
Randy R Schreifer
County Auditor
By Brenda Stanger Deputy

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1216550
Certified, Filed, and/or Recorded on
01-09-2007 at 12:19 PM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1216550

82.49104.001

**MDocs** 9-M -- WARRANTY DEED (Top 3 inches Reserved for Recording Data) Miller/Davis Co. © St. Paul, MN 651-642-1988 Minnesota Uniform Conveyancing Blanks (6/1/97)
Corporation or Partnership or Limited Liability Company to Corporation, Partnership or Limited Liability Company

DEED TAX DUE: $ 1,087.22
Date: ~~December 5~~ January, 2007

FOR VALUABLE CONSIDERATION, NRB Properties, LLC

a limited liability company under the laws of Minnesota
Grantor, hereby conveys and warrants to City of St. Cloud

Grantee, a municipal corporation under the laws of Minnesota
real property in Stearns County, Minnesota, described as follows:

Lot Two (2), Block One (1), NRB PROPERTIES. ✓

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:
Covenants, Conditions, Declarations, Easements and Restrictions of record, if any.

Check box if applicable:
☑ The Seller certifies that the seller does not know of any wells on the described real property.
☐ A well disclosure certificate accompanies this document.
☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

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NRB Properties, LLC
By [signature]
Its Chief Manager
By
Its

STATE OF MINNESOTA
COUNTY OF STEARNS } ss.

This instrument was acknowledged before me on January 5, 2007 (Date)
by RJ Lindmeier and
the Chief Manager and
of NRB Properties, LLC

a limited liability company under the laws of Minnesota
on behalf of the limited liability company

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):
MITCHELL J. RENGEL
NOTARY PUBLIC-MINNESOTA
My Comm. Exp. Jan. 31, 2010

[signature]
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Check here if part or all of the land is Registered (Torrens) ☐

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

City of St. Cloud
400 2nd Street South
St. Cloud, MN 56301

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Tri-County Abstract and Title Guaranty, Inc.

122 12th Avenue North
St. Cloud, MN 56303
320-253-2096
TCA File No. 92447

✓ TCA 92447 Return To: Tri-County Abst.

WARNING: UNAUTHORIZED COPYING OF THIS FORM PROHIBITED.

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1216553

Certified, Filed, and/or Recorded on

01-09-2007 at 12:19 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1216553

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Tri-County Abstract
122 12th Ave North
St. Cloud, MN 56303

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
1046227

1b. ☑ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party. ☐ DELETE name: Give record name to be deleted in item 6a or 6b. ☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
North Tier Landco, LLC

OR

| 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

| 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 7c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 7d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 7e. TYPE OF ORGANIZATION | 7f. JURISDICTION OF ORGANIZATION | 7g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral ☑ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

Lot Two (2), Block One (1), ~~Goodnik~~ NRB Properties Rob

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
Wells Fargo Bank, NA

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

10. OPTIONAL FILER REFERENCE DATA
TCA File 92447 TCA 92447 Return To: Tri-County Abst.

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

SCR 1 of 1

46
CS
9/5

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1237482

Certified, Filed, and/or Recorded on

09-05-2007 at 12:54 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1237482

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone (800) 331-3282 Fax (818) 662-4141

B. SEND ACKNOWLEDGEMENT TO: (Name and Mailing Address) 8347 WFB-WHOLESALE L

✓ UCC Direct Services
cnv P.O. Box 29071
Glendale, CA 91209-9071

12033618

MNMN
FIXTURE

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
✓ 1046227 02/24/03 CC MN Steams

1b. [X] This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. [ ] TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. [X] CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. [ ] ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects [ ] Debtor or [ ] Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

[ ] CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.

[ ] DELETE name: Give record name to be deleted in item 6a or 6b.

[ ] ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
North Tier Landco, LLC

OR

| 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

| 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 7c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 7d. SEE INSTRUCTION | ADD'L INFO RE ORGANIZATION DEBTOR | 7e. TYPE OF ORGANIZATION | 7f. JURISDICTION OF ORGANIZATION | 7g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | [ ] NONE |

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral [ ] deleted or [ ] added, or give entire [ ] restated collateral description, or describe collateral [ ] assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here [ ] and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
Wells Fargo Bank, National Associaton

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

10. OPTIONAL FILER REFERENCE DATA
12033618 Debtor Name: North Tier Landco, LLC 1342 3459624899

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

Prepared by UCC Direct Services, P.O. Box 29071 Glendale, CA 91209-9071 Tel (800) 331-3282

SCR 1 of 4

Exhibit A

(Description of Collateral)

All of Debtor's right, title and interest in and to (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing. This filing is not a filing on inventory and is not intended to secure any personal property of the Debtor except as set forth in (d) through (g) above.



SCR 3 of 4

**EXHIBIT B**

(Legal Description)

Lot One (1), Block One (1), Foundry Addition, Stearns County, Minnesota.

SCR 4 of 4

SCR 4 of 4

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[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1237483

Certified, Filed, and/or Recorded on

09-05-2007 at 12:55 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1237483

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone (800) 331-3282 Fax (818) 662-4141

B. SEND ACKNOWLEDGEMENT TO: (Name and Mailing Address) 8347 WFB-WHOLESALE L

✓ env UCC Direct Services
P.O. Box 29071
Glendale, CA 91209-9071

12045129

MNMN
FIXTURE

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
✓1047244 03/03/03 CC MN Steams

1b. [X] This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. [ ] TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. [X] CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. [ ] ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects [ ] Debtor or [ ] Secured Party of record. Check only one of these two boxes.

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[ ] CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.

[ ] DELETE name: Give record name to be deleted in item 6a or 6b.

[ ] ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable)

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
North Tier Landco, LLC

OR

| 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

| 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 7c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 7d. SEE INSTRUCTION | ADD'L INFO RE ORGANIZATION DEBTOR | 7e. TYPE OF ORGANIZATION | 7f. JURISDICTION OF ORGANIZATION | 7g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | [ ] NONE |

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral [ ] deleted or [ ] added, or give entire [ ] restated collateral description, or describe collateral [ ] assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here [ ] and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
Wells Fargo Bank, N.A.

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

10. OPTIONAL FILER REFERENCE DATA
12045129 Debtor Name: North Tier Landco, LLC 1342 3459624899

SCR 1 of 4

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

Prepared by UCC Direct Services, P.O. Box 29071
Glendale, CA 91209-9071 Tel (800) 331-3282

Exhibit A

(Description of Collateral)

All of Debtor's right, title and interest in and to (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing. This filing is not a filing on inventory and is not intended to secure any personal property of the Debtor except as set forth in (d) through (g) above.

STP1:45-0929.2

ATTENTION FILING OFFICER, PLEASE STAMP AND RETURN WITH UCC-1

SCR 3 of 4

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CS
9/5

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1237483

Certified, Filed, and/or Recorded on

09-05-2007 at 12:55 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1237483

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone (800) 331-3282 Fax (818) 662-4141

B. SEND ACKNOWLEDGEMENT TO: (Name and Mailing Address) 8347 WFB-WHOLESALE L

✓ env UCC Direct Services
P.O. Box 29071
Glendale, CA 91209-9071

12045129

MNMN
FIXTURE

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
✓1047244 03/03/03 CC MN Steams

1b. [X] This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. [ ] TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. [X] CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. [ ] ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects [ ] Debtor or [ ] Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

[ ] CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.

[ ] DELETE name: Give record name to be deleted in item 6a or 6b.

[ ] ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable)

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
North Tier Landco, LLC

OR

| 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

| 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 7c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 7d. SEE INSTRUCTION | ADD'L INFO RE ORGANIZATION DEBTOR | 7e. TYPE OF ORGANIZATION | 7f. JURISDICTION OF ORGANIZATION | 7g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | [ ] NONE |

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral [ ] deleted or [ ] added, or give entire [ ] restated collateral description, or describe collateral [ ] assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here [ ] and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
Wells Fargo Bank, N.A.

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

10. OPTIONAL FILER REFERENCE DATA
12045129 Debtor Name: North Tier Landco, LLC 1342 3459624899

SCR 1 of 4

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

Prepared by UCC Direct Services, P.O. Box 29071
Glendale, CA 91209-9071 Tel (800) 331-3282

Exhibit A

(Description of Collateral)

All of Debtor's right, title and interest in and to (a) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed upon the Land as described on Exhibit B attached hereto (the "Land"); (b) all mechanical systems which are attached and an integral part of the building only, lighting apparatus, elevators and motors, engines and machinery, electrical equipment, refrigerating plant and refrigerators, carpets, carpeting, storm windows and doors, window screens, screen doors, storm sash, window shades or blinds, awnings, locks, fences, trees, shrubs, and all other fixtures of every kind and nature whatsoever now or hereafter owned by the Debtor and attached or affixed to and used in connection with the operation of the building(s) located on the Land, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing; (c) all hereditaments, easements, rights, privileges and appurtenances now or hereafter belonging, attached or in any way pertaining to the Land or to any building, structure or improvement now or hereafter located thereon; (d) the immediate and continuing right to receive and collect all rents, income, issues and profits now due and which may hereafter become due under or by virtue of any lease or agreement (oral or written) for the leasing, subleasing, use or occupancy of all or part of the Land now, heretofore or hereafter made or agreed to by Debtor; (e) all of the leases and agreements described in (d) above, together with all guarantees therefor and any renewals or extensions thereof; (f) all right, title and interest of the Borrower and North Tier under the Lease; and (g) all insurance and other proceeds of, and all condemnation awards with respect to, the foregoing. This filing is not a filing on inventory and is not intended to secure any personal property of the Debtor except as set forth in (d) through (g) above.

STP1:45-[illegible]-2

ATTENTION FILING OFFICER, PLEASE STAMP AND RETURN WITH UCC-3

1/46.00 LMW 11-1

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1242648

Certified, Filed, and/or Recorded on

11-01-2007 at 11:23 AM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1242648

**RELEASE OF EASEMENT**

KNOW ALL BY THESE PRESENTS: that QWEST CORPORATION, a Colorado Corporation, (formerly known as U S WEST COMMUNICATIONS, INC. successor in interest to Northwestern Bell Telephone Company, hereinafter called the "Telephone Company"), for and in consideration of $1.00 and other good and valuable consideration in hand paid, the receipt whereof is hereby confessed and acknowledged, does hereby release, remise and quit claim all the right, title and interest acquired by the Telephone Company or its assignors under that certain Easement recorded as Document No. 998011, dated the 25th day of January, 2002 and recorded the 2nd day of February, 2002 in the Office of the Register of Deeds in and for Stearns County, Minnesota, unto the present owner or owners, as their respective interests may appear therein, in the following described property, in said County of Stearns, State of Minnesota, to wit:

And hereby excepting and reserving to the Telephone Company any and all interests otherwise acquired in said property, except as above stated.

✓ Ulteig Engineers
5201 East River Rd #308
Mpls, MN 55421

SCR 1 of 2

IN WITNESS WHEREOF, the Telephone Company has caused these presents to be executed by its duly authorized officer this 23rd day of July, 2007.

QWEST CORPORATION

By: Ross J Larson

Title: MANAGER Design Engineer

STATE OF MINNESOTA )
) ss.
COUNTY OF Washington )

The foregoing instrument was acknowledged before me this 27th day of July, 2007 by Ross J. Larson, the Manager Design Engineer of QWEST CORPORATION, a Colorado Corporation, formerly known as U S WEST COMMUNICATIONS, INC. and Northwestern Bell Telephone Company, on behalf of the corporation.

ROBERT R. WENGER
Notary Public
Minnesota
My Commission Expires January 31, 2008

Robert R Wenger
Notary Public

Project: MNCW1106-St Cloud

This instrument was drafted by:

QWEST CORPORATION
390 Commerce Drive
Woodbury, MN 55125

HO
CS
1/11

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1248015

Certified, Filed, and/or Recorded on

01-11-2008 at 09:20 AM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1248015

# AMENDMENT TO MORTGAGE
## (Minnesota)

03-3378408612-42
03770 CSh

This Amendment to Mortgage (the "**Amendment**"), is made and entered into by the undersigned borrower, guarantor and/or other obligor (the "**Mortgagor**") and U.S. BANK N.A. (the "**Bank**") as of the date set forth below.

☒ *If checked here, the following applies:* This is a mortgage amendment, as defined in Minnesota Statutes, section 287.01, subdivision 2, and as such it does not secure a new or an increased amount of debt.

## RECITALS

A. The Mortgagor (or the Mortgagor's predecessor in interest, if different from the undersigned Mortgagor) executed a mortgage (the "**Mortgage**"), dated OCTOBER 30, 2002. The Land (defined in the Mortgage) subject to the Mortgage is described as follows (or in **Exhibit A** hereto if the description does not appear below):

Lot 2, Block 1, Goodin, Stearns County, Minnesota . Property located at: 5201 Foundry Cir, St Cloud, MN 56303

Amount of additional committed funds $ 0.00

Additional Mortgage Tax for additional committed funds $ N/A

Property Identification No. 82-47182-102

B. The Mortgage was recorded in the office of the County Recorder/Registrar of Titles of Stearns County, Minnesota, on NOVEMBER 1, 2002 in Book _____, on Page _____, as Document No. 1029999.

C. The Mortgagor has requested that the Bank permit certain modifications to the Mortgage as described below.

D. The Bank has agreed to such modifications, but only upon the terms and conditions outlined in this Amendment.

## TERMS OF AGREEMENT

In consideration of the recitals and mutual covenants contained herein, and for other good and valuable consideration, the Mortgagor and the Bank agree as follows:

1. ☐ **Change in Note/Secured Amount.** If checked here, the phrase in the Mortgage "a note or notes dated N/A in the initial principal amount(s) of $ N/A" is hereby amended and replaced with the phrase "note(s) dated or amended as of N/A in the principal amount(s) of $ N/A". Any limit to the amount of debt secured by this Mortgage, whether in a section labeled "Maximum Principal Amount Secured" or otherwise, is hereby deleted and replaced with **"NOTWITHSTANDING anything to the contrary herein, enforcement of this mortgage is limited to a debt amount of $ N/A under chapter 287 of Minnesota Statutes".**

2. ☐ **Change in Revolving Credit Facility.** If checked here, the second sentence of Paragraph 1.5 is hereby deleted and replaced with "The maximum amount which may be secured at any one time under the Revolving credit facility is $ N/A".

1/46 2300

CD4122

MORTGAGE REGISTRATION TAX 2,300.00

STEARNS COUNTY AUDITOR

DEPUTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1256110

Certified, Filed, and/or Recorded on

04-22-2008 at 01:07 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1256110

# REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 04-22-2008 and the parties and their addresses are as follows:

MORTGAGOR: COURRIER INVESTMENTS, LLC, A MINNESOTA
LIMITED LIABILITY COMPANY
2932 DOLORES DR
ST CLOUD, MN 56303

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: PLAZA PARK BANK
Organized and existing under the laws of the state of Minnesota
PO BOX 337
WAITE PARK, MN 56387

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells, conveys and mortgages to Lender, with the power of sale, the following described property: LOT TWO (2), BLOCK ONE (1), FOUNDRY ADDITION, ACCORDING TO THE PLAT AND SURVEY THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR STEARNS COUNTY, MINNESOTA

The property is located in STEARNS (County) at 713 ANDERSON AVE (Address), ST CLOUD (City) Minnesota 56301 (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.



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✓ TCA 96876 Return To: Tri-County Abst.

3. **MAXIMUM OBLIGATION LIMIT.** ☒ Notwithstanding anything to the contrary herein, enforcement of this Security Instrument is limited to a predetermined debt amount of $ 1,000,000.00 under chapter 287 of Minnesota Statutes. ☐ This Security Instrument secures an indeterminate amount and the mortgage registration tax will be paid according to chapter 287 of Minnesota Statutes.
Additional amounts secured by this Security Instrument include interest and any other amount advanced by Lender in protection of the Property or this Security Instrument including but not limited to taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due under prior or superior mortgages and other prior or superior liens, encumbrances and interests, legal expenses and attorneys' fees.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" includes, but is not limited to, the following:
   A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt). *(You **must** specifically identify the debt(s) secured and you should include the **final maturity** date of such debt(s).)*
   PROMISSORY NOTE DATED APRIL 22, 2008-MATURES APRIL 22, 2013

   B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. Nothing in this Security Instrument shall constitute a commitment to make additional future advances or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
   C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
   D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
   E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

   If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage, with the power of sale, the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
   A. To make all payments when due and to perform or comply with all covenants.
   B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
   C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:



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A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.

B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.

C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the non-homestead portion of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied first as set forth at Minn. Stat. Ann. § 576.01, Subdivision 2, and then at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases. This Security



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Instrument applies when, as additional security for the debt secured by the mortgage, it secures an original principal debt of $100,000 or more or is a lien upon residential real estate containing more than four dwelling units, and is not a lien upon Property which is entirely homesteaded as agricultural property or residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. This Security Instrument may only be enforced against the non-homestead portion of the assigned Property.

15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
    A. Any party obligated on the Secured Debt fails to make payment when due;
    B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
    C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
    D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
    E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
    F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
    G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** If the Secured Debt is subject to Minn. Stat. § 47.20, subd. 8, Lender will give borrower written notice of default prior to foreclosure, by certified mail at the address of the Property listed in this Security Instrument or such other address borrower may have designated to Lender in writing, unless the default consists of the sale of the Property without Lender's consent. The notice will specify: (a) the nature of the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the Security Instrument and sale of the mortgaged premises; (e) that the borrower has the right to reinstate the Security Instrument after acceleration; and (f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale. Additionally, in some other instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. Upon default, Lender shall have the right, without declaring the whole indebtedness due and payable, to foreclose against all or any part of the Property. This Mortgage shall continue as a lien on any part of the Property not sold on foreclosure.

    At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents including without limitation, the power to sell the Property.

    If there is a default, Lender may, in addition to any other permitted remedy, advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Mortgagor at such time and place as Lender designates. If Lender invokes the power of sale, Lender shall give notice of the sale including the time, terms and place of sale and a description of the property to be sold as required by the applicable law in effect at the time of the proposed sale. Lender or its designee may purchase the Property at any sale.

    Upon sale of the Property and to the extent not prohibited by law, Lender shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser. Lender shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Mortgage; and (c) any excess to the person or persons legally entitled to it. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

    If the Property is sold pursuant to this section, Mortgagor, or any person holding possession of the Property through Mortgagor, shall immediately surrender possession of the Property to the purchaser at the sale. If possession is not surrendered, Mortgagor or such person shall be a tenant holding over and may be dispossessed in accordance with applicable law.

    All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
19. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C.



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9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.

L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

**20. CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**21. INSURANCE.** Mortgagor agrees to maintain insurance as follows:

A. Mortgagor shall keep the improvements now existing or hereafter built on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the



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insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guarantied, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. **WAIVER OF HOMESTEAD.** Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.

28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:

☐ **Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.



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**29. OTHER TERMS.** If checked, the following are applicable to this Mortgage:

☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.

☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

☐ **Additional Terms.**

**SIGNATURES:** By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

☐ Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: COURRIER INVESTMENTS, LLC

George Courrier Jr pres 4-22-08
(Signature) GEORGE W. COURRIER JR, PRESIDENT (Date) (Signature) (Date)

(Signature) (Date) (Signature) (Date)

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

**ACKNOWLEDGMENT:**

(Individual) STATE OF _____, COUNTY OF _____} ss.
This instrument was acknowledged before me this _____day of _____
by _____.
My commission expires:

_____
(Notary Public)

19 TRES04
4/22/2008 13:02:21
000008734 MR STATE %

PAID

2,300.00

STATE OF Minnesota, COUNTY OF STEARNS } ss.

This instrument was acknowledged before me this 22nd day of April, 2008

(Business or Entity Acknowledgment)

by GEORGE W. COURRIER JR, PRESIDENT
(Title(s))

of COURRIER INVESTMENTS, LLC (Name of Business or Entity)

a Minnesota on behalf of the business or entity.

My commission expires:

BRENDA L. ROETTGER
NOTARY PUBLIC-MINNESOTA
My Comm. Exp. Jan. 31, 2010

Brenda L Roettger
(Notary Public)

This instrument was prepared by (name, address): PLAZA PARK BANK
131 6TH AVENUE SOUTH
WAITE PARK, MN 56387



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SCR 8 of 8

2/416 2300

D 4/22

MORTGAGE REGISTRATION TAX
2,300.00
STEARNS COUNTY AUDITOR
DEPUTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1256111
Certified, Filed, and/or Recorded on
04-22-2008 at 01:07 PM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1256111

# REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 04-22-2008 and the parties and their addresses are as follows:

MORTGAGOR: COURRIER INVESTMENTS, LLC, A MINNESOTA
LIMITED LIABILITY COMPANY
2932 DOLORES DR
ST CLOUD, MN 56303

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: PLAZA PARK BANK
Organized and existing under the laws of the state of Minnesota
PO BOX 337
WAITE PARK, MN 56387

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells, conveys and mortgages to Lender, with the power of sale, the following described property: LOT TWO (2), BLOCK ONE (1), FOUNDRY ADDITION, ACCORDING TO THE PLAT AND SURVEY THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR STEARNS COUNTY, MINNESOTA

The property is located in STEARNS (County) at 713 ANDERSON AVE (Address), ST CLOUD (City) Minnesota 56301 (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.



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TCA 96876 Return To: Tri-County Abst.

SCR 1 of 8

3. **MAXIMUM OBLIGATION LIMIT.** ☒ Notwithstanding anything to the contrary herein, enforcement of this Security Instrument is limited to a predetermined debt amount of $ 1,000,000.00 under chapter 287 of Minnesota Statutes. ☐ This Security Instrument secures an indeterminate amount and the mortgage registration tax will be paid according to chapter 287 of Minnesota Statutes.
Additional amounts secured by this Security Instrument include interest and any other amount advanced by Lender in protection of the Property or this Security Instrument including but not limited to taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due under prior or superior mortgages and other prior or superior liens, encumbrances and interests, legal expenses and attorneys' fees.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" includes, but is not limited to, the following:
   A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt). *(You **must** specifically identify the debt(s) secured and you should include the **final maturity** date of such debt(s).)*
   PROMISSORY NOTE DATED APRIL 22, 2008-MATURES APRIL 22, 2013

   B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. Nothing in this Security Instrument shall constitute a commitment to make additional future advances or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
   C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
   D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
   E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

   If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage, with the power of sale, the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
   A. To make all payments when due and to perform or comply with all covenants.
   B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
   C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:



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A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.

B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.

C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the non-homestead portion of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied first as set forth at Minn. Stat. Ann. § 576.01, Subdivision 2, and then at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases. This Security



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Instrument applies when, as additional security for the debt secured by the mortgage, it secures an original principal debt of $100,000 or more or is a lien upon residential real estate containing more than four dwelling units, and is not a lien upon Property which is entirely homesteaded as agricultural property or residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. This Security Instrument may only be enforced against the non-homestead portion of the assigned Property.

15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
    A. Any party obligated on the Secured Debt fails to make payment when due;
    B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
    C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
    D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
    E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
    F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
    G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** If the Secured Debt is subject to Minn. Stat. § 47.20, subd. 8, Lender will give borrower written notice of default prior to foreclosure, by certified mail at the address of the Property listed in this Security Instrument or such other address borrower may have designated to Lender in writing, unless the default consists of the sale of the Property without Lender's consent. The notice will specify: (a) the nature of the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the Security Instrument and sale of the mortgaged premises; (e) that the borrower has the right to reinstate the Security Instrument after acceleration; and (f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale. Additionally, in some other instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. Upon default, Lender shall have the right, without declaring the whole indebtedness due and payable, to foreclose against all or any part of the Property. This Mortgage shall continue as a lien on any part of the Property not sold on foreclosure.

    At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents including without limitation, the power to sell the Property.

    If there is a default, Lender may, in addition to any other permitted remedy, advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Mortgagor at such time and place as Lender designates. If Lender invokes the power of sale, Lender shall give notice of the sale including the time, terms and place of sale and a description of the property to be sold as required by the applicable law in effect at the time of the proposed sale. Lender or its designee may purchase the Property at any sale.

    Upon sale of the Property and to the extent not prohibited by law, Lender shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser. Lender shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Mortgage; and (c) any excess to the person or persons legally entitled to it. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

    If the Property is sold pursuant to this section, Mortgagor, or any person holding possession of the Property through Mortgagor, shall immediately surrender possession of the Property to the purchaser at the sale. If possession is not surrendered, Mortgagor or such person shall be a tenant holding over and may be dispossessed in accordance with applicable law.

    All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
19. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C.



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_____ _____ _____

9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.

L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

**20. CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**21. INSURANCE.** Mortgagor agrees to maintain insurance as follows:

A. Mortgagor shall keep the improvements now existing or hereafter built on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the



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insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guarantied, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. **WAIVER OF HOMESTEAD.** Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.

28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:

☐ **Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.



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29. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:

☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.

☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

☐ **Additional Terms.**

**SIGNATURES:** By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

☐ Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: COURRIER INVESTMENTS, LLC

George W Courrier Jr pres 4-22-08
(Signature) GEORGE W. COURRIER JR, PRESIDENT (Date) (Signature) (Date)

(Signature) (Date) (Signature) (Date)

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

**ACKNOWLEDGMENT:**

(Individual) STATE OF _____, COUNTY OF _____} ss.
This instrument was acknowledged before me this _____day of _____
by _____.
My commission expires:

_____
(Notary Public)

19 TRES04
4/22/2008 13:02:48
00000734 MR STATE %

PAID

2,300.00

STATE OF Minnesota, COUNTY OF STEARNS } ss.

This instrument was acknowledged before me this 22nd day of April, 2008

(Business or Entity Acknowledgment)

by GEORGE W. COURRIER JR, PRESIDENT
(Title(s))

of COURRIER INVESTMENTS, LLC (Name of Business or Entity)

a Minnesota on behalf of the business or entity.

My commission expires:

BRENDA L. ROETTGER
NOTARY PUBLIC-MINNESOTA
My Comm. Exp. Jan. 31, 2010

Brenda L Roettger
(Notary Public)

This instrument was prepared by (name, address): PLAZA PARK BANK
131 6TH AVENUE SOUTH
WAITE PARK, MN 56387



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GLG

2/416 2300

D 4/22

MORTGAGE REGISTRATION TAX
2,300.00
STEARNS COUNTY AUDITOR
DEPUTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1256111
Certified, Filed, and/or Recorded on
04-22-2008 at 01:07 PM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1256111

# REAL ESTATE MORTGAGE

(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 04-22-2008 and the parties and their addresses are as follows:

MORTGAGOR: COURRIER INVESTMENTS, LLC, A MINNESOTA
LIMITED LIABILITY COMPANY
2932 DOLORES DR
ST CLOUD, MN 56303

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: PLAZA PARK BANK
Organized and existing under the laws of the state of Minnesota
PO BOX 337
WAITE PARK, MN 56387

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, sells, conveys and mortgages to Lender, with the power of sale, the following described property: LOT TWO (2), BLOCK ONE (1), FOUNDRY ADDITION, ACCORDING TO THE PLAT AND SURVEY THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR STEARNS COUNTY, MINNESOTA

The property is located in STEARNS (County) at 713 ANDERSON AVE (Address), ST CLOUD (City) Minnesota 56301 (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.



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TCA 96876 Return To: Tri-County Abst.

SCR 1 of 8

3. **MAXIMUM OBLIGATION LIMIT.** ☒ Notwithstanding anything to the contrary herein, enforcement of this Security Instrument is limited to a predetermined debt amount of $ 1,000,000.00 under chapter 287 of Minnesota Statutes. ☐ This Security Instrument secures an indeterminate amount and the mortgage registration tax will be paid according to chapter 287 of Minnesota Statutes.
Additional amounts secured by this Security Instrument include interest and any other amount advanced by Lender in protection of the Property or this Security Instrument including but not limited to taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due under prior or superior mortgages and other prior or superior liens, encumbrances and interests, legal expenses and attorneys' fees.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" includes, but is not limited to, the following:
   A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt). *(You **must** specifically identify the debt(s) secured and you should include the **final maturity** date of such debt(s).)*
   PROMISSORY NOTE DATED APRIL 22, 2008-MATURES APRIL 22, 2013

   B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. Nothing in this Security Instrument shall constitute a commitment to make additional future advances or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
   C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
   D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
   E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

   If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.
5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage, with the power of sale, the Property and warrants that the Property is unencumbered, except for encumbrances of record.
7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
   A. To make all payments when due and to perform or comply with all covenants.
   B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
   C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.
10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:



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A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.

B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.

C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the non-homestead portion of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied first as set forth at Minn. Stat. Ann. § 576.01, Subdivision 2, and then at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases. This Security



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Instrument applies when, as additional security for the debt secured by the mortgage, it secures an original principal debt of $100,000 or more or is a lien upon residential real estate containing more than four dwelling units, and is not a lien upon Property which is entirely homesteaded as agricultural property or residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. This Security Instrument may only be enforced against the non-homestead portion of the assigned Property.

15. **CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Mortgagor will be in default if any of the following occur:
    A. Any party obligated on the Secured Debt fails to make payment when due;
    B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
    C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
    D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
    E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
    F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
    G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** If the Secured Debt is subject to Minn. Stat. § 47.20, subd. 8, Lender will give borrower written notice of default prior to foreclosure, by certified mail at the address of the Property listed in this Security Instrument or such other address borrower may have designated to Lender in writing, unless the default consists of the sale of the Property without Lender's consent. The notice will specify: (a) the nature of the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured; (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the Security Instrument and sale of the mortgaged premises; (e) that the borrower has the right to reinstate the Security Instrument after acceleration; and (f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale. Additionally, in some other instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgagor is in default. Upon default, Lender shall have the right, without declaring the whole indebtedness due and payable, to foreclose against all or any part of the Property. This Mortgage shall continue as a lien on any part of the Property not sold on foreclosure.

    At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents including without limitation, the power to sell the Property.

    If there is a default, Lender may, in addition to any other permitted remedy, advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Mortgagor at such time and place as Lender designates. If Lender invokes the power of sale, Lender shall give notice of the sale including the time, terms and place of sale and a description of the property to be sold as required by the applicable law in effect at the time of the proposed sale. Lender or its designee may purchase the Property at any sale.

    Upon sale of the Property and to the extent not prohibited by law, Lender shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser. Lender shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Mortgage; and (c) any excess to the person or persons legally entitled to it. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

    If the Property is sold pursuant to this section, Mortgagor, or any person holding possession of the Property through Mortgagor, shall immediately surrender possession of the Property to the purchaser at the sale. If possession is not surrendered, Mortgagor or such person shall be a tenant holding over and may be dispossessed in accordance with applicable law.

    All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
18. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.
19. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C.



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_____ _____ _____

9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.

L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

**20. CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**21. INSURANCE.** Mortgagor agrees to maintain insurance as follows:

A. Mortgagor shall keep the improvements now existing or hereafter built on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the loan. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the



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insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.

C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. **NO ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

23. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

24. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guarantied, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

25. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

26. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. **WAIVER OF HOMESTEAD.** Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.

28. **U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Mortgage:

☐ **Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.

☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.

☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.



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29. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:

☐ **Agricultural Property.** Mortgagor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Mortgagor is an individual or entity allowed to own agricultural land as specified by law.

☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.

☐ **Additional Terms.**

**SIGNATURES:** By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

☐ Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: COURRIER INVESTMENTS, LLC

George W Courrier Jr pres 4-22-08
(Signature) GEORGE W. COURRIER JR, PRESIDENT (Date) (Signature) (Date)

(Signature) (Date) (Signature) (Date)

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

**ACKNOWLEDGMENT:**

(Individual) STATE OF _____, COUNTY OF _____} ss.
This instrument was acknowledged before me this _____day of _____
by _____.
My commission expires:

_____
(Notary Public)

19 TRES04
4/22/2008 13:02:48
00000734 MR STATE %

PAID

2,300.00

NO DELINQUENT TAXES AND
TRANSFER ENTERED
DATE Oct. 21, 2008
AUDITOR Randy R Schmidt
DEPUTY

98.61600.0000 split

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1270693
Certified, Filed, and/or Recorded on
10-21-2008 at 11:49 AM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1270693

## WARRANTY DEED

DEED TAX DUE: $1.65

Date: Oct. 7, 2008

FOR VALUABLE CONSIDERATION, the City of Waite Park, a Minnesota municipal corporation, 19 13th Avenue North, Waite Park, MN 56387, Grantor, hereby conveys and warrants to BNSF Railway Company, Grantee, a Delaware corporation, 2500 Lou Menk Drive, Fort Worth, TX 76131-2830, real property in Stearns County, Minnesota, legally described as follows:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: None.

Check box if applicable:

☒ The Seller certifies that the Seller does not know of any wells on the described real property.
☐ A well disclosure certificate accompanies this document.
☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

✓ **The sale price or other consideration given for this property was $500.00 or less.**



SCR 1 of 5

✓ TCH

CITY OF WAITE PARK

By _____
Richard E. Miller, Its Mayor

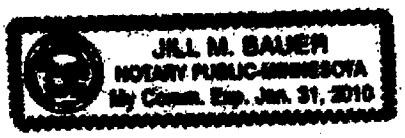
Affix Deed Tax Stamp Here

By _____
Shaunna Johnson, Its City Administrator

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 11th day of September, 2008, by Richard E. Miller, Mayor of the City of Waite Park, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by the City Council.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

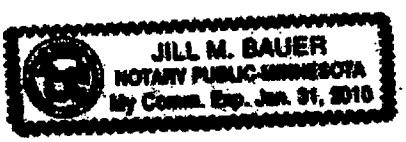



_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

STATE OF MINNESOTA )
) ss.
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 11th day of September, 2008, by Shaunna Johnson, City Administrator of the City of Waite Park, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by the City Council.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)




_____
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

30 TRE505
10/21/2008 9:36:44
000022666 DEED TX *

PAID

1.65



SCR 2 of 5

CHECK HERE IF PART OR ALL OF THE LAND IS REGISTERED (TORRENS) ☐

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT TO:

BNSF Railway Company
c/o Staubach Global Services, Inc.
AOB-2
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

THIS INSTRUMENT WAS DRAFTED BY:
Susan M. Dege - 0290385
Rajkowski Hansmeier Ltd.
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone: (320) 251-1055

## Exhibit A

**Parcel A:**

That part of the Southwest Quarter of the Southwest Quarter of Section 9, Township 124, Range 28, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of said Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West, 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West, 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East, 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West, 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East, 97.03 feet; thence South 89 degrees 57 minutes 55 seconds East, 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East, 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East, 1363.55 feet to the point of beginning; thence continue South 89 degrees 57 minutes 55 seconds East, 34.21 feet; thence South 55 degrees 51 minutes 16 seconds East 34.49 feet; thence southeasterly along a tangential curve concave to the northeast, radius 904.93 feet, central angle 01 degrees 51 minutes 26 seconds, 29.33 feet; thence South 32 degrees 17 minutes 19 seconds West, along a line not tangent to said curve, a distance of 25.00 feet; thence southeasterly a distance of 331.77 feet along a curve concave to the northeast and not tangent with the last described line, said curve has a radius of 929.93 feet, a central angle of 20 degrees 26 minutes 28 seconds, and the chord of said curve bears South 67 degrees 55 minutes 55 seconds East; thence North 89 degrees 59 minutes 27 seconds West, along a line not tangent to said curve, a distance of 379.77 feet; thence North 00 degrees 00 minutes 00 seconds East, 180.51 feet to the point of beginning.

**Parcel B:**

That part of the Southeast Quarter of the Southeast Quarter of Section 8, together with that part of the Southwest Quarter of the Southwest Quarter of Section 9, Township 124, Range 28, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.03 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East 1218.69 feet to the point of beginning; thence continue South 89 degrees 57 minutes 55 seconds East 179.07 feet; thence North 55 degrees 51 minutes 16 seconds West 17.73 feet; thence North 49 degrees 29 minutes 41 seconds West 238.60 feet to the southerly railroad right-of-way line; thence South 87 degrees 16 minutes 55 seconds West along said southerly railroad right-of-way line 683.63 feet; thence North 87 degrees 32 minutes 40 seconds East 176.51 feet; thence southeasterly along a tangential curve concave to the southwest, radius 904.93 feet, central angle 34 degrees 50 minutes 45 seconds, 550.36 feet to the point of beginning.

**Parcel C:**

That part of the Southeast Quarter of the Southwest Quarter of Section 9, Township 124, Range 28, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.03 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East 1614.25 feet; thence South 78 degrees 37 minutes 20 seconds East 755.25 feet; thence North 88 degrees 39 minutes 10 seconds East 519.77 feet to the point of beginning; thence continue North 88 degrees 39 minutes 10 seconds East 101.88 feet to the northwesterly railroad right-of-way line; thence North 57 degrees 43 minutes 00 seconds East along said northwesterly railroad right-of-way line 139.68 feet; thence southwesterly a distance of 233.30 feet along a curve concave to the northwest and not tangent with the last described line, said curve has a radius of 1382.00 feet, a central angle of 09 degrees 40 minutes 20 seconds, and the chord of said curve bears South 70 degrees 42 minutes 18 seconds West, to the point of beginning.

STATE OF Minnesota, COUNTY OF STEARNS } ss.

This instrument was acknowledged before me this 22nd day of April, 2008

(Business or Entity Acknowledgment)

by GEORGE W. COURRIER JR, PRESIDENT
(Title(s))

of COURRIER INVESTMENTS, LLC (Name of Business or Entity)

a Minnesota on behalf of the business or entity.

My commission expires:

BRENDA L. ROETTGER
NOTARY PUBLIC-MINNESOTA
My Comm. Exp. Jan. 31, 2010

Brenda L Roettger
(Notary Public)

This instrument was prepared by (name, address): PLAZA PARK BANK
131 6TH AVENUE SOUTH
WAITE PARK, MN 56387



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GLG

HL
3098

STATE OF MINNESOTA

COUNTY OF STEARNS

IN DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

---

COURT FILE NO. C8-01-492
CASE TYPE NO.

City of Waite Park,

Plaintiff/Petitioner,

vs.

Burlington Northern and Santa Fe Railway Company, a Delaware Corporation,

Defendant/Respondent.

**FINAL CERTIFICATE IN CONDEMNATION**

---

**IN THE MATTER OF THE CONDEMNATION OF CERTAIN REAL ESTATE IN THE COUNTY OF STEARNS, STATE OF MINNESOTA, FOR ROADWAY AND UTILITY PURPOSES**

---

I, Susan M. Dege, assistant city attorney of the City of Waite Park, Petitioner herein, do hereby certify that an estate in fee simple absolute has been taken by Petitioner in the following described real property by eminent domain proceedings pursuant to Minnesota Statues, Chapter 117 for roadway and utility purposes:

See Exhibit A attached hereto and made a part hereof.

1. That on April 20, 2001, the above-named court entered into its order granting the petition for the taking of such land and appointed commissioners to ascertain and report the amount of damages sustained by the owners on account of such taking. In accordance with the



SCR 1 of 3

✓ Rajkowski

Plaintiff/Petitioner's appraisal, the sum of $3,145.00 was deposited with the Court on May 2, 2001.

2. That the parties entered into an agreement that the damages sustained by Defendant/Respondent were in the amount of $3,145.00 together with accrued interest. Said funds were released from the Court to attorney for Petitioner/Plaintiff and thereafter paid to Defendant/Respondent.

3. That accordingly all awards have been paid.

4. That all necessary proceedings for the taking of such land are now completed in accordance with the provisions of Minnesota Statutes, Chapter 117.

Dated this 20th day of August, 2008.

RAJKOWSKI HANSMEIER LTD.

By _____
Susan M. Dege - 0290385
Assistant City Attorney for
Petitioner City of Waite Park
Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone: (320) 251-1055

Dated this 29 day of August, 2008.

Approved:

BY THE COURT:

_____
Judge of District Court

FILED 8/29/08
Stearns County
District Court
By: Jennifer L.
Deputy

## EXHIBIT A

A 15.00 foot by 650.00 foot perpetual roadway and utility easement over, under and across part of the South Half of the Southeast Quarter (S ½ SE ¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 586.70 feet to a point on the southerly right-of-way line of BNSF Railroad, said point is also the point of beginning of said easement and on a 5729.58 foot radius curve, the center of circle of said curve bears North 01 degrees 00 minutes 17 seconds East from said point; thence easterly along said southerly right-of-way line and along said curve 372.28 feet, central angle 03 degrees 43 minutes 22 seconds; thence North 87 degrees 16 minutes 55 seconds East tangent to said curve and along said southerly right-of-way line 277.72 feet; thence north, 15.00 feet; thence westerly parallel and distant 15.00 feet north of said southerly right-of-way line 650.00 feet; thence south 15.00 feet to the point of beginning.

FILED
SEP 05 2008
RANDY R. SCHREIFELS
COUNTY AUDITOR

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1267493

Certified, Filed, and/or Recorded on

09-05-2008 at 01:58 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1267493

STATE OF MINNESOTA
COUNTY OF STEARNS

I hereby certify that I have compared the foregoing papers with the original recorded in my office, consisting of Three (3) pages, and that it is a true and correct copy of said original.

Dated: 8-29-08

Timothy Roberts, Court Administrator

By: _____ Deputy

SCR 3 of 3

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1270066

Certified, Filed, and/or Recorded on

10-10-2008 at 10:44 AM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

(reserved for recording data)

## Memorandum of Easement

**THIS MEMORANDUM OF EASEMENT** is hereby executed this 20th day of June, 2008, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("Grantor"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and the CITY OF WAITE PARK, a Minnesota municipal corporation ("Grantee"), whose address for purposes of this instrument is 19 – 13th Avenue North, Waite Park, Minnesota 56387, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, the successors and assigns of the respective parties:

**WITNESSETH:**

**WHEREAS**, Grantor owns or controls certain real property situated in Stearns County, Minnesota, as described on Exhibit A attached hereto and incorporated herein by reference (the "Premises");

**WHEREAS**, Grantor and Grantee have entered into an Easement Agreement, dated June 20, 2008 (the "Easement Agreement") which sets forth, among other things, the terms of an easement granted by Grantor to Grantee upon, over and across the Premises (the "Easement"); and

**WHEREAS**, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement upon, over and across the Premises.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual. Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

env(P) Rajkowski

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement and this Memorandum of Easement, the Easement Agreement shall control.

**IN WITNESS WHEREOF,** Grantor and Grantee have executed this Memorandum of Easement to as of the date and year first above written.

**GRANTOR:**

BNSF RAILWAY COMPANY, a Delaware corporation

By: David P. Schneider
Name: David P. Schneider
Title: General Director - Land Revenue Management

**GRANTEE:**

CITY OF WAITE PARK, a Minnesota municipal corporation

By: Richard E. Miller
Name: Richard E. Miller
Title: Mayor

By: Shawnna Johnson
Name: Shawnna Johnson
Title: City Administrator-CLERK-TREASURER

per Nadine

STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 20th day of June, 2008, by David P. Schneider as General Director-Land Revenue Management of BNSF RAILWAY COMPANY, a Delaware corporation.

Rhonda Burton
Notary Public

(Seal)

RHONDA BURTON
My Commission Expires
September 21, 2008

My appointment expires: 9/21/2008

STATE OF MINNESOTA §
§
COUNTY OF STEARNS §

This instrument was acknowledged before me on the 7TH day of OCTOBER, 2008, by RICHARD E. MILLER as MAYOR and SHAUNNA JOHNSON as CITY ADMINISTRATOR-CLERK-TREASURER of CITY OF WAITE PARK, a Minnesota municipal corporation.

JILL M. BAUER
NOTARY PUBLIC-MINNESOTA
My Comm. Exp. Jan. 31, 2010

Jill M. Bauer
Notary Public

(Seal)

My appointment expires: 1-31-2010

Drafted by:
Glenn Olander-Quamme
Spence, Ricke, Sweeney & Gernes, P.A.
325 Cedar Street, Suite 600
St. Paul, MN 55101

# Exhibit A

**Part of Parcel B:**

The northerly 42.0 feet of the following described Parcel B.

Description of Parcel B:

That part of the Southeast Quarter of the Southeast Quarter of Section 8, together with that part of the Southwest Quarter of the Southwest Quarter of Section 9, Township 124, Range 28, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.03 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East 1218.69 feet to the point of beginning; thence continue South 89 degrees 57 minutes 55 seconds East 179.07 feet; thence North 55 degrees 51 minutes 16 seconds West 17.73 feet; thence North 49 degrees 29 minutes 41 seconds West 238.60 feet to the southerly railroad right-of-way line; thence South 87 degrees 16 minutes 55 seconds West along said southerly railroad right-of-way line 683.63 feet; thence North 87 degrees 32 minutes 40 seconds East 176.51 feet; thence southeasterly along a tangential curve concave to the southwest, radius 904.93 feet, central angle 34 degrees 50 minutes 45 seconds, 550.36 feet to the point of beginning.

**Parcel C:**

That part of the Southeast Quarter of the Southwest Quarter of Section 9, Township 124, Range 28, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.03 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 467.56 feet; thence South 89 degrees 57 minutes 55 seconds East 1614.25 feet; thence South 78 degrees 37 minutes 20 seconds East 755.25 feet; thence North 88 degrees 39 minutes 10 seconds East 519.77 feet to the point of beginning; thence continue North 88 degrees 39 minutes 10 seconds East 101.88 feet to the northwesterly railroad right-of-way line; thence North 57 degrees 43 minutes 00 seconds East along said northwesterly railroad right-of-way line 139.68 feet; thence southwesterly a distance of 233.30 feet along a curve concave to the northwest and not tangent with the last described line, said curve has a radius of 1382.00 feet, a central angle of 09 degrees 40 minutes 20 seconds, and the chord of said curve bears South 70 degrees 42 minutes 18 seconds West, to the point of beginning.

STATE OF MINNESOTA

COUNTY OF STEARNS

IN DISTRICT COURT

SEVENTH JUDICIAL DISTRICT

FILED
OCT 23 2008
RANDY R. SCHREIFELS
COUNTY AUDITOR

COURT FILE NO. C8-01-492
CASE TYPE NO.

City of Waite Park,

Plaintiff/Petitioner,

vs.

**AMENDED FINAL CERTIFICATE IN CONDEMNATION**

Burlington Northern and Santa Fe Railway Company, a Delaware Corporation,

Defendant/Respondent.

---

**IN THE MATTER OF THE CONDEMNATION OF CERTAIN REAL ESTATE IN THE COUNTY OF STEARNS, STATE OF MINNESOTA, FOR ROADWAY AND UTILITY PURPOSES**

---

I, Susan M. Dege, assistant city attorney of the City of Waite Park, Petitioner herein, do hereby certify that a roadway and utility easement has been taken by Petitioner in the following described real property by eminent domain proceedings pursuant to Minnesota Statues, Chapter 117 for roadway and utility purposes:

See Exhibit A attached hereto and made a part hereof.

1. That on April 20, 2001, the above-named court entered into its order granting the petition for the taking of such land and appointed commissioners to ascertain and report the amount of damages sustained by the owners on account of such taking. In accordance with the



SCR 1 of 4

Rajkowski Hansmeier

## EXHIBIT A

A 15.00 foot by 650.00 foot perpetual roadway and utility easement over, under and across part of the South Half of the Southeast Quarter (S ½ SE ¼) of Section 8, Township 124 North, Range 28 West, in the City of Waite Park, Stearns County, Minnesota described as follows:

Commencing at the southwest corner of Section 9; thence South 89 degrees 33 minutes 37 seconds East, assumed bearing, along the south line of said Section 9, a distance of 938.16 feet; thence North 08 degrees 12 minutes 25 seconds West 174.12 feet; thence North 89 degrees 59 minutes 25 seconds West 1514.10 feet; thence North 00 degrees 02 minutes 05 seconds East 177.16 feet; thence North 89 degrees 57 minutes 55 seconds West 183.34 feet; thence North 00 degrees 02 minutes 05 seconds East 97.30 feet; thence South 89 degrees 57 minutes 55 seconds East 113.34 feet; thence North 00 degrees 02 minutes 05 seconds East 586.70 feet to a point on the southerly right-of-way line of BNSF Railroad, said point is also the point of beginning of said easement and on a 5729.58 foot radius curve, the center of circle of said curve bears North 01 degrees 00 minutes 17 seconds East from said point; thence easterly along said southerly right-of-way line and along said curve 372.28 feet, central angle 03 degrees 43 minutes 22 seconds; thence North 87 degrees 16 minutes 55 seconds East tangent to said curve and along said southerly right-of-way line 277.72 feet; thence north, 15.00 feet; thence westerly parallel and distant 15.00 feet north of said southerly right-of-way line 650.00 feet; thence south 15.00 feet to the point of beginning.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1270882
Certified, Filed, and/or Recorded on
10-23-2008 at 11:56 AM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

Doc. No 1276349

8S-396

# State of Minnesota

# SECRETARY OF STATE

Certificate of Merger

I, Mark Ritchie, Secretary of State of Minnesota, certify that the documents required to effectuate a merger between the entities listed below and designating the surviving entity have been filed in this office on the date noted on this certificate; and the qualification of any non-surviving entity to do business in Minnesota is terminated on the effective date of this merger.

Merger Filed Pursuant to Minnesota Statutes, Chapter: 302A

State of Formation and Names of Merging Entities:

MN: GREDE-ST. CLOUD, INC.

WI: GREDE FOUNDRIES, INC.

State of Formation and Name of Surviving Entity:

WI: GREDE FOUNDRIES, INC.

Effective Date of Merger: February 1, 2008 @ 12:01 A.M.

Name of Surviving Entity after Effective Date of Merger:

GREDE FOUNDRIES, INC.

This Certificate has been issued on: 01/31/2008

Mark Ritchie
Secretary of State.

Chicago Title

27003630007

88-326 Dc-m

**ARTICLES OF MERGER**

**OF**

**GREDE-ST. CLOUD, INC.,**
**a Minnesota corporation**

**WITH AND INTO**

**GREDE FOUNDRIES, INC.,**
**a Wisconsin corporation**

**Pursuant to Sections 302A.621 and 302A.651 of the Minnesota Business Corporation Act**

Pursuant to Sections 302A.621 and 302A.651 of the Minnesota Business Corporation Act, Grede Foundries, Inc., a Wisconsin corporation (the "Parent Corporation"), which is the owner of all (100%) of the issued and outstanding common stock, $0.01 par value, of Grede-St. Cloud, Inc., a Minnesota corporation (the "Subsidiary Corporation"), constituting the only outstanding class or series of capital stock of the Subsidiary Corporation, hereby executes and files these Articles of Merger relating to the merger (the "Merger") of the Subsidiary Corporation into the Parent Corporation:

FIRST: The Plan of Merger, in the form approved by the Board of Directors of the Parent Corporation by resolutions duly adopted by unanimous written action of the Board of Directors of the Parent Corporation dated as of January 28, 2008, is attached hereto as Exhibit A.

SECOND: The number of outstanding shares of each class and series of the Subsidiary Corporation and the number of shares of each class and series owned by the Parent Corporation are as follows:

| Designation of Class and Series | Number of Outstanding Shares | Number of Shares Owned by Parent Corporation |
|---|---|---|
| Common Stock, $0.01 par value per share | 1,000 | 1,000 |

THIRD: The Plan of Merger has been duly approved by the Parent Corporation under Sections 302A.621 and 302A.651 of the Minnesota Business Corporation Act and under Section 180.1104 of the Wisconsin Business Corporation Act.

FOURTH: The Merger shall be effective as of 12:01 A.M. on February 1, 2008.

Dated as of January 28, 2008

GREDE FOUNDRIES, INC.

By: _____
Raymond F. Lowry, VP and CFO

SCR 2 of 5

**EXHIBIT A**

**PLAN OF MERGER**

**OF**

**GREDE-ST. CLOUD, INC.,**
**a Minnesota corporation**

**WITH AND INTO**

**GREDE FOUNDRIES, INC.,**
**a Wisconsin corporation**

The Plan of Merger required by the Wisconsin Business Corporation Law and the Minnesota Business Corporation Act is as follows:

1. **Corporate Existence of the Surviving Corporation.** At the Effective Time (as defined in Section 6 hereof), Grede-St. Cloud, Inc., a Minnesota corporation ("Grede-St. Cloud") a wholly owned subsidiary of Grede Foundries, Inc., a Wisconsin corporation ("Grede"), shall be merged with and into its parent corporation, Grede, and Grede shall emerge as the surviving corporation (the "Merger"). The corporate identity, existence, purposes, powers, franchises, rights and immunities of Grede shall continue unaffected and unimpaired by the Merger and the corporate identity, existence, purposes, powers, franchises, rights and immunities of Grede-St. Cloud shall be merged into Grede and Grede shall be fully vested therewith. The separate existence of Grede-St. Cloud, except insofar as otherwise specifically provided by law, shall cease at the Effective Time of the Merger, whereupon Grede-St. Cloud and Grede shall be and become one single corporation.

2. **Articles of Incorporation and Bylaws of the Surviving Corporation.** The Articles of Incorporation and Bylaws of Grede in effect immediately prior to the Effective Time of the Merger shall be the Articles of Incorporation and the Bylaws of the Surviving Corporation following the Effective Time of the Merger until amended in accordance with the law and the terms thereof.

3. **Director and Officers of the Surviving Corporation.** The duly qualified and acting directors and officers of Grede immediately prior to the Effective Time of the Merger shall be the directors and officers of the Surviving Corporation, to hold office as provided in the Bylaws of Grede.

4. **No Conversion of Shares.** The manner of conversion and exchange of shares of Grede and Grede-St. Cloud shall be as follows:

a. **No Conversion of Grede Shares.** The Merger shall effect no change in any of the shares of common stock of Grede, and none of its shares shall be changed or converted as a result of the Merger.

b. **Cancellation of Grede-St. Cloud Shares.** At the Effective Time of the Merger, each share of common stock of Grede-St. Cloud then issued and outstanding,

shall be canceled. Because Grede is the sole shareholder of Grede-St. Cloud, no additional shares of Grede's common stock will be issued in connection with the Merger.

5. **Effect of the Merger**. At the Effective Time of the Merger, Grede shall succeed to, without other transfer, and shall possess and enjoy, all the rights, privileges, immunities, powers and franchises both of a public and private nature, and be subject to all the restrictions, liabilities and duties of Grede-St. Cloud and Grede, and all rights, privileges, immunities, powers and franchises of Grede-St. Cloud and Grede and all property, real, personal and mixed, tangible or intangible, and all debts due to Grede-St. Cloud and/or Grede on whatever account, for stock subscriptions as well as for all other things in action or belonging to each of said corporations, shall be vested in Grede. All property, rights, privileges, immunities, powers and franchises, and all and every other interest shall be thereafter the property of Grede as such were of Grede-St. Cloud or Grede and the title to or any interest in any real estate vested by deed or otherwise in either Grede-St. Cloud or Grede shall not revert or be in any way impaired by reason of the Merger; provided, however, that all rights of creditors and liens upon any property of Grede-St. Cloud and/or Grede shall be preserved unimpaired, limited in lien to the property affected by such liens at the Effective Time of the Merger, and all debts, liabilities, and duties of Grede-St. Cloud and/or Grede, respectively, shall thenceforth attach to Grede and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by Grede.

6. **Effective Time of the Merger**. The Merger shall be effective as of 12:01 A.M. on February 1, 2008 (the "Effective Time").

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 31 2008
Mark Ritchie
Secretary of State

Exhibit A-2

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1276349

Certified, Filed, and/or Recorded on

01-16-2009 at 03:24 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

**STATE OF MINNESOTA**
DEPARTMENT OF STATE
I hereby certify that this is a true and complete copy of the document as filed for record in this office.
DATED Jan 7, 2009
Mark Ritchie
Secretary of State
By Jean Moffitt

46
PM
2-23

# UTILITY EASEMENT AGREEMENT
# (EXISTING WATER LINE)

This Utility Easement Agreement is made and entered into this 13th day of February, 2009, by and between Grede Foundries, Inc., a Wisconsin corporation, ("Grede"), and Courrier Investments, LLC, a Minnesota limited liability company ("Courrier").

## RECITALS

A. Grede is the present owner of certain parcels of land located in Stearns County, Minnesota, legally described on Exhibit A attached hereto and incorporated herein, (the "Grede Parcels").

B. Courrier is the present owner of a certain parcel of land located in Stearns County, Minnesota, legally described on Exhibit B attached hereto and incorporated herein, (the "Courrier Parcel").

C. The Grede Parcels and the Courrier Parcel are adjacent to each other.

D. Courrier acquired the Courrier Parcel from ME International, Inc., a Michigan corporation, ("MEI"), subject to a utility easement (the "Old Easement") described in an agreement between MEI and Grede-St. Cloud, Inc., a Minnesota corporation, dated September 15, 1995, filed in the office of the Stearns County Recorder on ✓ September 20, 1995, and recorded as Document No. 803665.

E. Grede-St. Cloud, Inc., was a wholly owned subsidiary of Grede and merged into Grede effective February 1, 2008, as evidence by Certificate of Merger and Articles ✓ of Merger filed in the office of the County Recorder in and for Stearns County, Minnesota, on January 16, 2009, and recorded as Document No. 1276349.

F. The parties desire to declare the Old Easement null and void and to replace it with a new easement over, under and across that part of the Courrier Parcel legally described on attached Exhibit C, (the "New Easement Area"), as hereinafter set forth.

NOW, THEREFORE, in consideration of the Recitals, the mutual covenants contained herein, and for Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grede and Courrier agree as follows:

1. Incorporation of Recitals. The Recitals are incorporated into and made a part of this Agreement.

2. Old Easement Null and Void. The parties hereby declare the Old Easement in all respects null and void.

Courtesy Brenda



1 TCA

SCR 1 of 8

3. Grant of Easement. Courrier hereby grants, conveys and warrants to Grede a perpetual easement over, under and across the New Easement Area (as hereinafter defined) for the purpose of operating, maintaining repairing and/or replacing the part of the existing underground water line serving the Grede Parcels which is located on the Courrier Parcel. The easement granted hereby includes the right to enter upon the New Easement Area and, to the extent reasonably necessary, other portions of the Courrier Parcel in order to perform such maintenance, repairs and/or replacements. All such maintenance, repairs and/or replacements will be performed in a safe manner, in compliance with all applicable laws, rules and regulations and at Grede's sole expense. Any entry upon the Courrier Parcel shall be done in a manner which minimizes interference with the use thereof by the owner thereof. Courrier shall be the right to use the New Easement Area in any manner which does not materially impede, limit or restrict the exercise by Grede of the rights granted by this Agreement.

4. Definition of New Easement Area. The term "New Easement Area" means that part of the Courrier Parcel described in Exhibit C attached hereto and incorporated herein.

5. Reservation of the Right to Construct Utilities in the New Easement Area. Courrier hereby reserves the right to construct and thereafter maintain, repair and/or replace, at its sole cost, gas, water electricity, telephone, storm and sanitary sewer and other utilities in the New Easement Area (both above and below the surface) to serve any building now or hereafter located on the Courrier Parcel. The location of such utilities will be subject to Grede's approval, which will not be unreasonably withheld.

6. Repairs to Property of Other Party. Grede shall be responsible for the prompt repair at its sole expense of any damage to the Courrier Parcel, including any currently existing improvements thereon and the utilities installed by Courrier pursuant to Paragraph 5 hereof, which arises out of the exercise by Grede of its rights under this Agreement. Courrier shall be responsible for the prompt repair at its sole expense of any damage to the water line serving the Grede Parcel which arises out of the exercise by Courrier of its rights under this Agreement.

7. Indemnity. Grede shall indemnify, defend and hold Courrier harmless from all loss, damages and expenses, including, but not limited to, reasonable attorney's fees arising out of Grede's use of the New Easement Area and/or a breach of its obligations under this Agreement, unless such occurrence is the result of negligence or willful misconduct of Courrier.

8. Severability. If any terms, provisions, covenants or restrictions contained in this Agreement or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of the terms, provisions, covenants and restrictions or the

application of such terms, provisions, covenants or restrictions to persons, entities or circumstances other than those to which it is held invalid, illegal or unenforceable shall not be affected thereby.

9. Enforcement. In the event that either party shall fail to comply with the covenants and agreements contained in this Agreement, the other party shall have the right to bring an action for damages and/or injunctive relief.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties. No other representations, warranties or promises pertaining to this Agreement shall have been made by, or shall be binding on, either of the parties hereto.

11. Paragraph Headlines. The captions and paragraph headings in this Agreement are inserted only as a matter of convenience and for reference and they do not define, limit or describe the scope of this Agreement.

12. Perpetual Effect. This Agreement and all of the terms, covenants, conditions, rights and privileges set forth in this Agreement shall be perpetual and shall be appurtenant to and run with the Courrier Parcel and the Grede Parcels.

13. Governing Law. This Agreement shall be governed and construed in accordance with the law of the State of Minnesota.

14. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

15. Recording and Filing of this Agreement. The parties agree that this Agreement shall be recorded in the office of the County Recorder of Stearns County, Minnesota.

16. Limitation on Liability. Notwithstanding anything to the contrary contained in this Agreement, no fee owner of either the Courrier Parcel or the Grede Parcels shall be personally obligated or liable under this Agreement except to the extent that the event out of which the liability or obligation of the owner of the Courrier Parcel or the Grede Parcels, as the case may be, arose during the period of its fee ownership of such parcel.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

COURRIER INVESTMENTS, LLC

By _____
George W. Courrier, Jr., its Chief Manager

GREDE FOUNDRIES, INC.

By _____
John Haas, its Vice-President of Operations

**CONSENT BY MORTGAGEE**

The undersigned, which holds two existing Mortgages against the Courrier Parcel dated April 22, 2008, and filed in the office of the Stearns County Recorder on April 22, 2008, as Document Nos. 1256110 and 1256111 hereby consents to this Agreement.

PLAZA PARK BANK

By _____
Dan Hagen, its Vice President

STATE OF MINNESOTA )
) ss.
COUNTY OF Stearns )

The foregoing instrument was acknowledged before me this 13th day of February, 2009, by George W. Courrier, Jrs., the Chief Manager of COURRIER INVESTMENTS, LLC, a Minnesota limited liability company, on behalf of the company.

DAN J HAGEN
Notary Public–Minnesota
My Comm. Expires Jan. 31, 2010

NOTARY PUBLIC

STATE OF MINNESOTA )
) ss.
COUNTY OF Stearns )

The foregoing instrument was acknowledged before me this 13th day of February, 2009, by John Haas, the Vice-President of Operations of GREDE FOUNDRIES, INC., a Wisconsin corporation, on behalf of the corporation.

DAN J HAGEN
Notary Public–Minnesota
My Comm. Expires Jan. 31, 2010

NOTARY PUBLIC

STATE OF MINNESOTA )
) ss.
COUNTY OF Stearns )

The foregoing instrument was acknowledged before me this 13th day of February, 2009, by Dan Hagen, the Vice President of PLAZA PARK BANK, a Minnesota corporation, on behalf of the corporation.

GREGORY L TSCHIDA
Notary Public–Minnesota
My Comm. Expires Jan. 31, 2010

NOTARY PUBLIC

THIS INSTRUMENT WAS DRAFTED BY:

JAMES F. MARRIN
Attorney at Law
111 South Seventh Avenue
Saint Cloud, MN 56301
Tel. (320) 253-4500
MN Attorney No. 67805

EXHIBIT A

The Grede Parcels:

Lots Three (3) and Four (4), Block One (1), FOUNDRY ADDITION, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.

EXHIBIT B

The Courrier Parcel:

Lot Two (2), Block One (1), FOUNDRY ADDITION, according to the plat and survey thereof on file and of record in the office of the County Recorder in and for Stearns County, Minnesota.

EXHIBIT C

The New Easement Area:

A 20.00 foot perpetual easement for water main purposes over, under and across Lot 2, Block 1, FOUNDRY ADDITION, Stearns County, Minnesota, according to the recorded plat thereof. The centerline of said Easement is described as follows: Commencing at the southeast corner of said Lot 2; thence North 00 degrees 05 minutes 08 seconds West, record bearing, along the east line of said Lot 2, a distance of 12.96 feet to the point of beginning of the centerline to be described; thence South 89 degrees 50 minutes 52 seconds West, 499.64 feet; thence North 00 degrees 09 minutes 08 seconds West, 75.99 feet; thence North 89 degrees 50 minutes 12 seconds East, 32.15 feet; thence North 47 degrees 03 minutes 39 seconds East, 42.70 feet; thence North 89 degrees 50 minutes 12 seconds East, 40.59 feet; thence North 04 degrees 12 minutes 58 seconds West, 211.95 feet; thence South 89 degrees 48 minutes 31 seconds West, 206.84 feet; thence South 00 degrees 06 minutes 52 seconds East, 317.78 feet, to the south line of said Lot 2 and said centerline there terminating. The sidelines of said centerline are prolonged or shortened to terminate on said east line of Lot 2 and said south line of Lot 2.

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA
Document # 1279257
Certified, Filed, and/or Recorded on
02-23-2009 at 12:35 PM
DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

SCR 8 of 8

H6
C5
5/4

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1280225

Certified, Filed, and/or Recorded on

03-04-2009 at 08:56 AM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1280225

# MECHANIC'S LIEN STATEMENT
## By Corporation

**3/3/09**

**NOTICE IS HEREBY GIVEN,** that it is the intention of **Landwehr Construction, Inc.** a Minnesota corporation, **846 33rd St S, St. Cloud, MN 56301,** to claim and hold a lien upon the tracts of land lying in **Stearns** County, Minnesota, described as follows, to-wit:

**Address: 5200 Foundry Circle, St. Cloud, MN**
**Legal: See Attached Exhibit A**

for the sum of **one thousand eight hundred sixty nine dollars and zero cents ($1,869.00)** (includes serving and filing fees) with interest at the highest rate allowed by law from **November 13,** 2008.

That said amount is due owing to said claimant for labor and materials furnished and performed in that certain improvement of said land described as follows, to-wit: **supplied crane services and other work.**

That the name of the person for whom and at whose request said material was furnished and said labor performed is as follows, to-wit: **Grede Foundries, Inc.**

That the date of the first item of said claimant's contribution to said improvement was **November 13,** 2008, and the date of the last item thereof **November 13,** 2008;

That a description of the premises to be charged with said lien, to the best of said claimant's ability to ascertain the same, is as above given.

That the name of the owner of said land and premises, at the date of making this statement, according to the best information said claimant now has or is able to ascertain is **Grede-St Cloud, Inc., Grede Foundries, Inc.**

That a copy of this statement must be served personally or by certified mail on the owner or its authorized agent or the person who entered into the contract with the contractor within 120 days of the doing of the last work or furnishing the last item of such skill, material or machinery as provided by Minnesota Statutes Section 514.08.

Notice as required by Minnesota Statutes Section 514.011 (2), if any, was given. **Landwehr Construction, Inc.** request timely notice by mail to the above address of any foreclosure of mortgage against this property whether by advertisement of action or voluntary agreement. MN Stat. 580.032, 582.032, 582.32.

Bryce G. Deter Agent for
**Landwehr Construction, Inc.**

Signature _____

STATE OF MINNESOTA

COUNTY OF STEARNS

Bryce G. Deter, being duly sworn upon oath, deposed and says:

1. I am over the age of majority and have knowledge of the facts stated herein and am competent to testify thereto.
2. This Mechanic's Lien statement is made at the instance of **Landwehr Construction, Inc.**
3. The affiant is the Agent for **Landwehr Construction, Inc.**
4. This Mechanic's Lien statement was served on **Grede Foundries, Inc., Grede-St Cloud, Inc.**, the owners and/or owner's agent therein named, by mailing to said persons a copy thereof by certified mail, enclosed directed to said persons at the last known addresses on the 3rd day of **March**, 2009

Grede Foundries, Inc.
P.O. Box 26499
Milwaukee, WI 53226

Grede-St Cloud, Inc.
P.O. Box 26499
Milwaukee, WI 53226

_____
Bryce G. Deter Agent for
**Landwehr Construction, Inc.**

SUBSCRIBED AND SWORN TO before
This 3rd day of **March**, 2009

_____
Notary Public for State of Minnesota

AMY A. POPPENHAGEN
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2010

This instrument was drafted by:
PRECISE LIEN SERVICE, INC.
P.O. Box 7354
St. Cloud, MN 56302
File No. 107-004

EXHIBIT I - LEGAL DESCRIPTION

Tract I: That part of the Northwest Quarter of the Southeast Quarter and that part of the Southwest Quarter of the Northeast Quarter all in Section 28, Township 125 North, Range 28 West, City of Sartell, Stearns County, Minnesota described as follows: Commencing at the Southeast corner of the Northeast Quarter of the Southwest Quarter; thence North 89 degrees 42 minutes 59 seconds West, assumed bearing, along the sputh line of the said Northeast Quarter of the Southwest Quarter, a distance of 1016.37 feet to the Southeast corner of a parcel of land described in Document Number 371403; thence North 04 degrees 49 minutes 30 seconds West along the east line of said parcel described in Document Number 371403, a distance of 280.01 feat; thence South 89 degrees 42 minutes 59 seconds East, parallel with the south line of said Northeast Quarter of the Southwest Quarter, a distance of 1036.55 feet to the east line of the said Northeast Quarter of the Southwest Quarter; thence South 89 degrees 12 minutes 01 second East, parallel with the south line of the said Northwest Quarter of the Southeast Quarter, a distance of 127.34 feet to the actual point of beginning; thence continue South 89 degrees 12 minutes 01 second East, a distance of 563.61 feet to the west line of SARTELL INDUSTRIAL PARK, a duly recorded plat, on file and of record in the Office of the County Recorder, Stearns County, Minnesota; thence North 00 degrees 33 minutes 34 seconds East, along the said west line, a distance of 1047.31 feet to the southeast corner of Lot 6, Block 3, said SARTELL INDUSTRIAL PARK; thance North 89 degrees 22 minutes 43 seconds West, along the south line of said SARTELL INDUSTRIAL PARK, a distance of 565.26 feat; thence South 00 degrees 28 minutes 07 seconds West a distance of 1045.56 feet to the point of beginning. Containing 13.559 acres, more or less. Together with an ingress and egress and utility easement as described in Document Number 0593506. Also subject to easements of record.

Subject to and together with a perpetual easement for ingress and egress and utility purposes over, under and across the following:

a. The north 30.00 feet of the said Northwest Quarter of the Southeast Quarter lying west of said SARTELL INDUSTRIAL PARK and that part of the said Southwest Quarter of the Northeast Quarter lying southerly of and westerly of said SARTELL INDUSTRIAL PARK;

b. The west 20.00 feet of Lots 3, 4, and 5, Block 3. The West 20.00 feet except the North 50.00 feat thereof of Lot 2. The South 20.00 feet of the North 70.00 feet of Lot 2, and the East 20.00 feet except the North 50.00 feet thereof, Lot 2, all in Block 3 together with that part of vacated 4th Avenue South and that part of vacated Industrial Drive lying adjacent to and 20.00 feet Eastarly of that part of vacated 4th Avenue South, and lying adjacent to and 20.00 feet Southerly and Westerly of that part of vacated Industrial Drive, which accrued to Lot 1, Block 3 as a result of those certain street vacations dated October 15, 1985 and recorded as Document No. 0588481, in the office of the County Recorder, Stearns County, Minnesota. All in said plat of Sartell Industrial Park.

c. The West 20 feet of that part of the SW¼ NE¼ lying Southerly of the plat of Sartell Industrial Park, and also over, under, and across the North 30 feet of the West 148.54 feet of the NW¼ of the SE¼ all in Section 28, Township 125, Range 28.

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together with all hereditaments and appurtenances belonging thereto.

Tract II: Lots 3 and 4, Block 1, Foundry Addition according to the recorded plat thereof.

1/46
CO12/29

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1306284

Certified, Filed, and/or Recorded on

12-29-2009 at 02:34 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1306284

**RETURN TO:** 100921799
**Chicago Title Insurance Company**
**222 South Ninth Street, Suite 3250**
**Minneapolis, MN 55402**

**(Top 3 inches reserved for recording data)**

**ASSIGNMENT OF MORTGAGE** — **Minnesota Uniform Conveyancing Blanks**
**By Business Entity** — **Form 20.3.2 (2006)**

DATED AND EFFECTIVE AS OF: November 25, 2009
*(month/day/year)*

FOR VALUABLE CONSIDERATION, DDJ Capital Management, LLC
*(insert name of Assignor)*

a limited liability company under the laws of Massachusetts

("**Assignor**"), hereby sells, assigns, and transfers to Wayzata Investment Partners LLC
*(insert name of each Assignee)*

("**Assignee**"), the Assignor's interest in the Mortgage dated October 27, 2006, executed by
*(month/day/year)*

Grede-St. Cloud, Inc., as mortgagor, to

DDJ Capital Management, LLC, as Agent for the Lenders, as mortgagee, and recorded

on November 7, 2006, as Document Number 1211119,
*(month/day/year)*

in the Office of the ☒ County Recorder ☐ Registrar of Titles of Stearns County, Minnesota, together with all right and interest in the note and obligations therein specified and the debt thereby secured. (check the applicable boxes)

*Check here if all or part of the described real property is Registered (Torrens)* ☐

Assignor

**DDJ Capital Management, LLC,**
as Administrative Agent on behalf of the Lenders

By: [signature]
*(signature)*

Its: Authorized Signatory
*(type of authority)*

By: [signature]
*(signature)*

Its: Authorized Signatory
*(type of authority)*

1SOA

[redacted]

OFFICE OF COUNTY RECORDER
STEARNS COUNTY, MINNESOTA

Document # 1306285

Certified, Filed, and/or Recorded on

12-29-2009 at 02:34 PM

DIANE GRUNDHOEFER
STEARNS COUNTY RECORDER

1306285

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Andrea Al-Attar
Milbank, Tweed, Hadley & McCloy LLP
1850 K St. NW
Suite 1100
Washington, DC 20006

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #
1211121

1b. ☑ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☑ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party. ☐ DELETE name: Give record name to be deleted in item 6a or 6b. ☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME
OR **DDJ CAPITAL MANAGEMENT, LLC, AS ADMINISTRATIVE AGENT**

| 6b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME
OR **WAYZATA INVESTMENT PARTNERS LLC, AS ADMINISTRATIVE AGENT**

| 7b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 7c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| 701 E. Lake Street, Suite 300 | Wayzata | MN | 55391 | |

| 7d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 7e. TYPE OF ORGANIZATION | 7f. JURISDICTION OF ORGANIZATION | 7g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral ☐ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
OR **DDJ CAPITAL MANAGEMENT, LLC, AS ADMINISTRATIVE AGENT**

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

10. OPTIONAL FILER REFERENCE DATA

**To file with the Real Estate Records of Stearns County, Minnesota**



Chicago Title - File: 100921799

SCR 1 of 3

2 of 4

0618026 filed 5.5.87

# ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT, made this 1st day of May 19 87, between PARK PRESS QUALITY PRINTING, INC. ("Borrower"), and THE FIRST AMERICAN NATIONAL BANK OF ST. CLOUD, a national banking association ("Bank").

## Recitals

The Borrower has executed and delivered to the Bank its Promissory Note, of even date herewith, in the principal amount of $325,000.00 (herein called the "Note").

To secure payment of the Note, the Borrower has executed and delivered to the Bank a Mortgage of even date herewith, (herein called "Mortgage"), covering, among other things, real estate situated in the County of Stearns, State of Minnesota, described in EXHIBIT A attached hereto and the buildings, improvements and fixtures now or hereafter located thereon (herein called "Mortgaged Premises").

The Bank, as a condition for granting the loan evidenced by the Note, has required the execution of this Assignment.

Accordingly, in consideration of the premises and in further consideration of the sum of One Dollar ($1.00) and other valuable consideration paid by the Bank to the Borrower, the receipt of which is hereby acknowledged, the Borrower does hereby grant, transfer and assign to the Bank all of the rents, income, issues and profits (hereinafter referred to as the "rentals"), now or hereafter accruing or owing from leases and tenancies of the Mortgaged Premises or any part thereof, whether accuring before or after foreclosure of the Mortgage or during the period of redemption thereof, for the purpose of securing:

(1) Payment of all indebtedness evidenced by the Note (including any extensions or renewals thereof) and all other sums secured by the Mortgage; and

(2) Performance and discharge of each and every obligation, covenant and agreement of the Borrower contained herein, in the Mortgage, and in any other instrument securing the Note.

A. To protect the security of this Assignment, the Borrower agrees as follows:

1. To faithfully perform and discharge all obligations, covenants, and agreements, which the Borrower shall become liable to observe or perform under any present or future lease of tenancy of all or any part of the Mortgaged Premises (such leases and tenancies are hereinafter collectively called "Leases" and singularly called "Lease"); to give prompt written notice to the Bank of any notice of default on the part of the Borrower with respect to any Lease received from a tenant thereunder; and at the sole cost and



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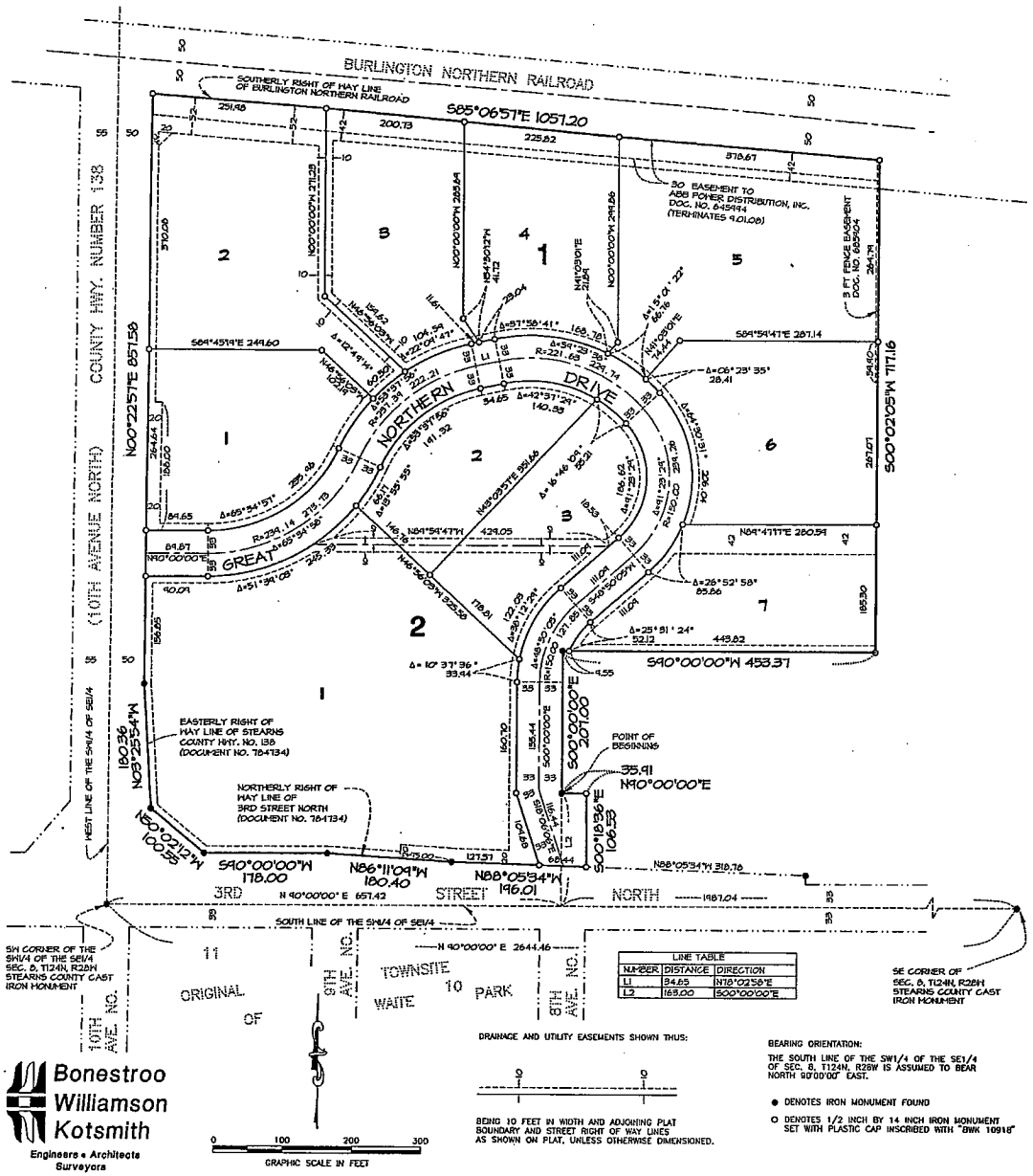
Page 1 of 5

OFFICIAL PLAT

PLAT CABINET E117

# WEST RIVER BUSINESS PARK




Bonestroo Williamson Kotsmith
Engineers • Architects
Surveyors

DRAINAGE AND UTILITY EASEMENTS SHOWN THUS:

BEING 10 FEET IN WIDTH AND ADJOINING PLAT BOUNDARY AND STREET RIGHT OF WAY LINES AS SHOWN ON PLAT, UNLESS OTHERWISE DIMENSIONED.

BEARING ORIENTATION:

THE SOUTH LINE OF THE SW1/4 OF THE SE1/4 OF SEC. 8, T124N, R28W IS ASSUMED TO BEAR NORTH 90°00'00" EAST.

● DENOTES IRON MONUMENT FOUND

○ DENOTES 1/2 INCH BY 14 INCH IRON MONUMENT SET WITH PLASTIC CAP INSCRIBED WITH "BWK 10918"

KNOW ALL MEN BY THESE PRESENTS: West River Business Park, L.L.P., a Minnesota Limited Liability Partnership, owners and proprietors, of the following described property situated in the City of Waite Park, Stearns County, Minnesota to wit:

That part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 124 North, Range 28 West, Stearns County, Minnesota described as follows: Commencing at the southwest corner of the said Southwest Quarter of the Southeast Quarter; thence North 90 degrees 00 minutes 00 seconds East, along the south line of the said Southwest Quarter of the Southeast Quarter, a distance of 657.42 feet; thence North 00 degrees 00 minutes 00 seconds East a distance of 163.00 feet to the actual point of beginning; thence North 90 degrees 00 minutes 00 seconds East a distance of 35.91 feet; thence South 00 degrees 18 minutes 36 seconds East a distance of 106.53 feet to the northerly right of way line of 3rd Street North; thence North 88 degrees 05 minutes 34 seconds West, along said right of way line, a distance of 196.01 feet; thence North 86 degrees 11 minutes 05 seconds West, along said right of way line, a distance of 180.40 feet; thence North 90 degrees 00 minutes 00 seconds West, along said right of way line, a distance of 178.00 feet; thence North 50 degrees 02 minutes 12 seconds West, along said right of way line, a distance of 100.55 feet to the easterly right of way line of County Road Number 138 (10th Avenue North); thence North 03 degrees 25 minutes 54 seconds West, along said right of way line, a distance of 180.36 feet; thence North 00 degrees 22 minutes 57 seconds East a distance of 857.58 feet to the southerly right of way line of Burlington North Railroad; thence South 85 degrees 06 minutes 57 seconds East, along said southerly right of way line, a distance of 1057.20 feet; thence South 00 degrees 02 minutes 05 seconds West a distance of 717.16 feet; thence South 90 degrees 00 minutes 00 seconds West a distance of 453.37 feet; thence South 00 degrees 00 minutes 00 seconds West a distance of 207.00 feet to the point of beginning.

Have caused the same to be surveyed and platted as WEST RIVER BUSINESS PARK and do hereby dedicate to the public for public use forever the thoroughfare, and also dedicate the easements as shown on this plat for drainage and utility easements only.

In witness whereof, said West River Business Park, L.L.P., has caused these presents to be signed by its proper officers this 30 day of MAY, 19 97.

Ronald A. Morton, Partner

Robert H. Anderson (Name)
President (Title)
Anderson Family Ltd. Partnership
Partner

Harold E. Anderson (Name)
Trustee (Title)
Harold E. Anderson Trustee of the Harold E. Anderson Revocable Trust Agreement Dated February 27, 1991, Partner

STATE OF MINNESOTA
COUNTY OF Benton

The foregoing instrument was acknowledged before me this 27th day of May 97, by Ronald A. Morton, Partner, Robert H. Anderson, President of Anderson Family Ltd. Partnership, Partner and HAROLD E. ANDERSON, Trustee of Harold E. Anderson Trustee of the Harold E. Anderson Revocable Trust Agreement dated February 27, 1991, Partner, on behalf of the Partnership.

Janna B. Brenhaug
Notary Public Benton County, Minnesota
My Commission Expires 1/31/2000

JANNA B. BRENHAUG
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

SURVEYOR'S CERTIFICATE

I hereby certify that I have surveyed and platted the property described on this plat as WEST RIVER BUSINESS PARK, that this plat is a correct representation of the survey, that all distances are correctly shown on the plat in feet and hundredths of a foot, that all monuments have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat and that there are no wet lands as defined in Minnesota Statues, Section 505.02, Subdivision 1 or public highways to be designated other than as shown.

Sidney P. Williamson
Sidney P. Williamson, Land Surveyor
Minnesota License Number 10918

STATE OF MINNESOTA
COUNTY OF STEARNS

The foregoing instrument was acknowledged before me this 30th day of May, 1997 by Sidney P. Williamson, Land Surveyor, Minnesota License Number 10918.

Robert K Smith
Notary Public Stearns County, Minnesota
My Commission Expires 31 January 2000

ROBERT KOTSMITH
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2000

WAITE PARK CITY COUNCIL

We do hereby certify that on the 3rd day of March, 1997 the City Council of Waite Park, Minnesota approved this plat of WEST RIVER BUSINESS PARK.

Mayor

Jeffrey J. Baird
Clerk

STEARNS COUNTY SURVEYOR

I hereby certify that this plat of WEST RIVER BUSINESS PARK has been checked and recommended for approval this 4TH day of June, 1997.

Barry R. Damberg
Stearns County Surveyor - Deputy

STEARNS COUNTY AUDITOR-TREASURER
PARCEL NUMBER 98-96855-010

TAX STATEMENT

I hereby certify that the taxes on the land described hereon are paid for the year 1997 and all years prior to the year 1997 and transfer entered.

Dated this 9th day of June, 1997.

V. T. Robert
Stearns County Auditor-Treasurer

Deputy Auditor-Treasurer

STEARNS COUNTY RECORDER

I hereby certify that this plat of WEST RIVER BUSINESS PARK was filed this 9th day of JUNE, 1997 at 2:03 o'clock P.M. and was duly recorded in Plat Cabinet No. E117, Document No. 847024

Patricia M. Overmoe
Stearns County Recorder

Deputy

96217

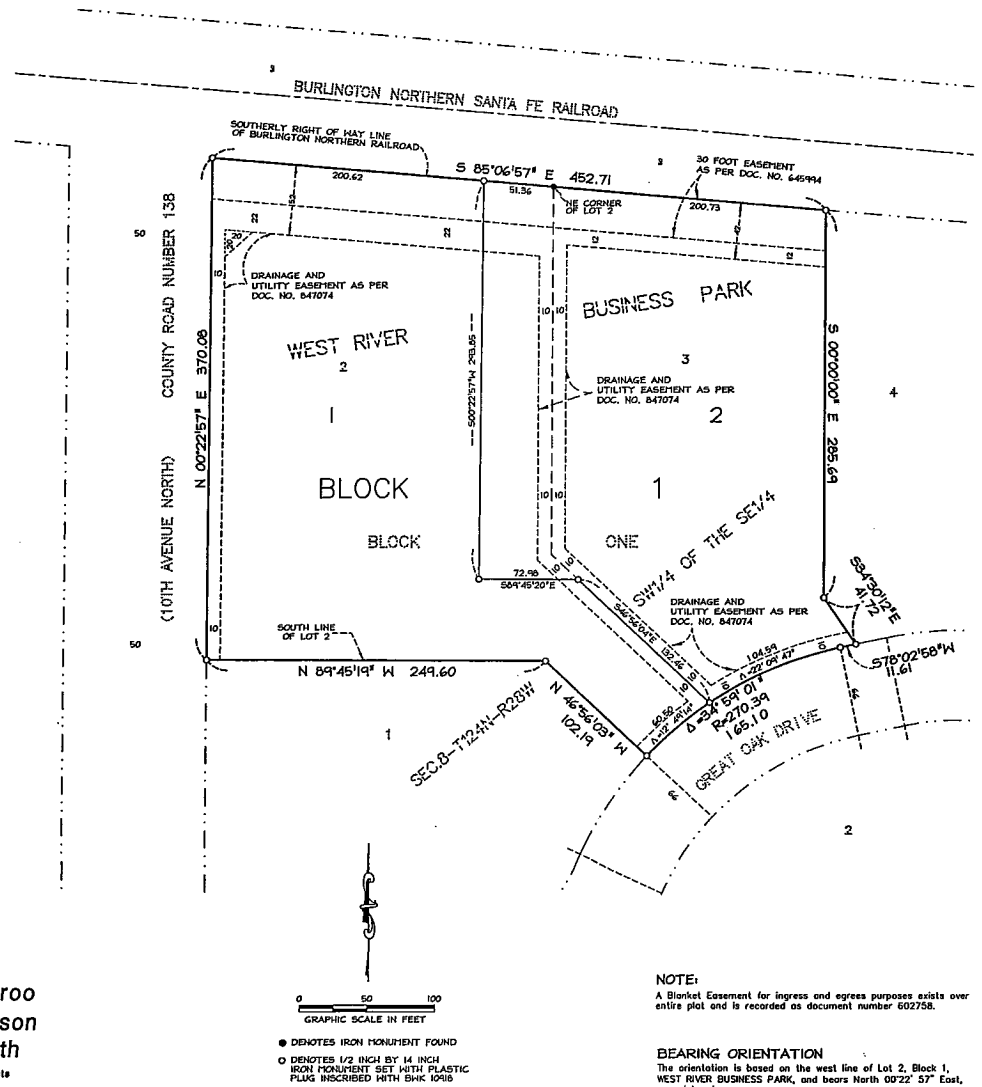
OFFICIAL PLAT

Plat Cabinet H59

# WEST RIVER BUSINESS PARK TWO

LOT AREAS
(sq.ft.+/-)

Block 1
Lot 1...83,041
Lot 2...82,037




● DENOTES IRON MONUMENT FOUND

○ DENOTES 1/2 INCH BY 14 INCH IRON MONUMENT SET WITH PLASTIC PLUG INSCRIBED WITH BHK 10418

Bonestroo
Williamson
Kotsmith
Engineers • Architects
Surveyors

NOTE:
A Blanket Easement for ingress and egress purposes exists over entire plat and is recorded as document number 602758.

BEARING ORIENTATION
The orientation is based on the west line of Lot 2, Block 1, WEST RIVER BUSINESS PARK, and bears North 00°22' 57" East, record bearing.

KNOW ALL MEN BY THESE PRESENTS: That Westland Properties, LLP, a limited liability partnership, under the laws of Minnesota, fee owners, of the following described property situated in the City of Waite Park, Stearns County, Minnesota to wit:

Lots 2 and 3, Block 1, WEST RIVER BUSINESS PARK, according to the plat thereof on file and of record in the Office of the County Recorder, Stearns County, Minnesota.

Have caused the same to be surveyed and platted as WEST RIVER BUSINESS PARK TWO.

In witness whereof said Westland Properties, LLP, a limited liability partnership, under the laws of Minnesota, fee owners, have caused these presents to be signed by its proper officers this 14th day of August 2002

WESTLAND PROPERTIES, LLP

Partner Partner

STATE OF MINNESOTA
COUNTY OF Stearns

The foregoing instrument was acknowledged before me this 14th day of August, 2002 by Rollie H. Anderson, partner and Ronald A. Merton partner, of Westland Properties, LLP, on behalf of the corporation.

SALLY A. HANSEN
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan 31, 2005

Notary Public, Stearns County, Minnesota
My Commission Expires January 31, 2005

SURVEYOR'S CERTIFICATE
I hereby certify that I have surveyed and platted the property described on this plat as WEST RIVER BUSINESS PARK TWO, that this plat is a correct representation of the survey, that all distances are correctly shown on the plat in feet and hundredths of a foot, that all monuments have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat and that there are no wet lands as defined in Minnesota Statues, Section 505.02, Subdivision 1 or public highways to be designated other than as shown.

Sidney P. Williamson, Land Surveyor
Minnesota License Number 10918

STATE OF MINNESOTA
COUNTY OF STEARNS

The foregoing instrument was acknowledged before me this 13th day of August, 2002 by Sidney P. Williamson, Land Surveyor, Minnesota License Number 10918.

GREGG STHOEING
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan 31, 2005

Notary Public, Stearns County, Minnesota
My Commission Expires 31 January 2005

CITY OF WAITE PARK
We do hereby certify that on the 9th day of September, 2002, the City Council of the City of Waite Park, Minnesota, approved this plat of WEST RIVER BUSINESS PARK TWO.

Mayor Clerk

STEARNS COUNTY SURVEYOR

I hereby certify that this plat of WEST RIVER BUSINESS PARK TWO has been checked and recommended for approval this 28th day of August, 2002.

Stearns County Surveyor
Dennis H. Kron, Minnesota License Number 23045

STEARNS COUNTY AUDITOR-TREASURER
PARCEL NUMBER 98.61370-202 98.61370-204
TAX STATEMENT

I hereby certify that the taxes on the land described hereon are paid for the year 2002 and all years prior to the year 2002 and transfer entered. Dated this 7th day of October, 2002

Stearns County Auditor-Treasurer Deputy Auditor-Treasurer

STEARNS COUNTY RECORDER
I hereby certify that this plat of WEST RIVER BUSINESS PARK TWO was filed this 23 day of October, 2002 at 11:24 o'clock A.M. and was duly recorded in Plat Cabinet H No. 59 Document No. 1025080

Stearns County Recorder Deputy

# Attachment F

# Site Inspection Checklist and Sign-In Sheet

# Attachment F Site Inspection Checklists and Inspection Team Roster

## Site Inspection Checklists

(Note: Only applicable portions of the Site Inspection Checklist form were retained in this summary.)

## Waite Park Wells Site Inspection

| I. SITE INFORMATION | |
|---|---|
| **Site name: Waite Park Wells** | **Date of inspection: 10/28/09** |
| **Location and Region: Waite Park, MN / R5** | **EPA ID:MND981002249** |
| **Agency, office, or company leading the five-year review: MPCA/Bay West, Inc.** | **Weather/temperature: Cloudy, Drizzle, 45ºF** |

**Remedy Includes**: (**Bold and underline all that apply**)

- G Landfill cover/containment
- G **Access controls**
- G **Institutional controls**
- G **Groundwater pump and treatment**
- G Surface water collection and treatment
- G Other_____
- G Monitored natural attenuation
- G Groundwater containment
- G Vertical barrier walls

**Attachments:** G **Inspection team roster attached** G Site map attached

**II. INTERVIEWS** (Check all that apply)

1. **O&M site manager** **Bill Schluenz** (Name) **Public Works Director** (Title) **10/28/09** (Date)
Interviewed G **at site** G at office G by phone Phone no. _____

2. **O&M staff none interviewed**

3. **Local regulatory authorities and response agencies** (i.e., State and Tribal offices, emergency response office, police department, office of public health or environmental health, zoning office, recorder of deeds, or other city and county offices, etc.) Fill in all that apply.

Agency ___**USEPA Region 5**_____
Contact ___**Ron Murawski**_____ **See attached roster for contact information**

Agency ____**MPCA**_____
Contact _**Wayne Sarappo & Mike Bares** _**See attached roster for contact information**

4. **Other interviews** (optional). **No additional interviews performed during site inspection**.

**III. ON-SITE DOCUMENTS & RECORDS VERIFIED** (Check all that apply)

1. **O&M Documents**
   G **O&M manual** G **Readily available** G **Up to date** G N/A
   G **As-built drawings** G **Readily available** G **Up to date**
   G **Maintenance logs** G **Readily available** G **Up to date** G N/A
   Remarks_____

2. **Site-Specific Health and Safety Plan** G Readily available G Up to date G **N/A**
   G Contingency plan/emergency response plan G Readily available G Up to date G **N/A**
   Remarks **City has a general City-wide Health & Safety Plan. City wells impacted by contamination from a Superfund Site. HAZWOPER training may not be required due to:**
   **No potential exposure to soil contamination provided ICs are adhered to.**
   **No potential exposure to GW contamination unless equipment maintenance is being performed. General health and safety issues (e.g., lock out/tag out, confined space entry, etc. are covered by the city's general health and safety policies. Issues related to groundwater contamination are covered by site specific worker's right to now.**

3. **O&M and-OSHA Training Records** G Readily available G Up to date G **N/A**
   Remarks **Employees have standard training provided by City. MSDS for contaminants in groundwater are available.**

4. **Permits and Service Agreements**
   G Air discharge permit G Readily available G Up to date G **N/A**
   G Effluent discharge G Readily available G Up to date G **N/A**
   G Waste disposal, POTW G Readily available G Up to date G **N/A**
   G Other permits_____ G Readily available G Up to date G **N/A**
   Remarks_____

5. **Gas Generation Records** G Readily available G Up to date G **N/A**
   Remarks_____

6. **Settlement Monument Records** G Readily available G Up to date G **N/A**
   Remarks_____

7. **Groundwater Monitoring Records** G **Readily available** G **Up to date** G N/A
   Remarks **City retains Braun to sample municipal wells. City forwards data to Barr Engineering. Barr submits to the MPCA.**

8. **Leachate Extraction Records** G Readily available G Up to date G **N/A**
   Remarks_____

9. **Discharge Compliance Records**
   G Air G Readily available G Up to date G **N/A**
   G Water (effluent) G Readily available G Up to date G **N/A**
   Remarks **Treated water is the city's potable water supply. Treated water is sampled as described above for municipal wells**

10. **Daily Access/Security Logs** G Readily available G Up to date G **N/A**
    Remarks_____

## IV. O&M COSTS

1. **O&M Organization**

G State in-house G Contractor for State
G **PRP in-house** G Contractor for PRP
G Federal Facility in-house G Contractor for Federal Facility
G Other **City has three full time employees at plant.**

2. **O&M Cost Records**

G **Readily available** G **Up to date**
G Funding mechanism/agreement in place
Original O&M cost estimate_____ G Breakdown attached

**Note: Treatment plan is 100% funded by the City. O&M costs are available upon request.**

3. **Unanticipated or Unusually High O&M Costs During Review Period**

Describe costs and reasons: **NA**

## V. ACCESS AND INSTITUTIONAL CONTROLS G **Applicable** G N/A

### A. Fencing

1. **Fencing damaged** G Location shown on site map G **Gates secured** G **N/A**

Remarks **Fencing is in place as part of security for a publicly owned treatment works. Not part of a remedy (ROD).**

### B. Other Access Restrictions

1. **Signs and other security measures** G Location shown on site map G **N/A**

Remarks **Security system in place a component of facility function (i.e., publicly owned treatment works) Not part of a remedy (ROD).**

### C. Institutional Controls (ICs) **See Institutional Control Evaluation performed separately from Site Inspection which discusses the entire BN Site. The City is aware of ICs for digging and consults with MPCA prior to any below grade work.**

### D. General

1. **Vandalism/trespassing** G Location shown on site map G **No vandalism evident**

Remarks_____

2. **Land use changes on site** G N/A

Remarks **Waite Avenue construction completed east of treatment plant in 2008. Work was performed under the MPCA's voluntary investigation & clean-up (VIC) program. Prior to construction, the area east of the treatment plant was an open, lightly vegetated area. A railroad line, which was previously relocated, overlaid a portion of the construction area at one time.**

**Contaminated soil was encountered during road construction. Likely sources of contaminated soil are believed to be:**

- **Soil underlying and proximal to the railroad line that was relocated.**
- **Soil encountered at a depth greater than the excavation depth required under the remedy (i.e., > 4 feet).**

**Soil excavated during road construction was managed as follows:**

- **Lead contaminated soil was consolidated and capped at a location east of BN's consolidated and capped soil pile. A fence was constructed around this soil pile.**
- **A second consolidated soil pile was constructed, capped, and fenced inside the general area where the treatment plant is located.**
- **A third soil pile was constructed and capped outside at a location proximal to Waite Avenue.**
- **Some soil was taken off-site.**

**Soil testing during road construction was performed by Braun.**

**Soil pile design and construction oversight was provided by Short, Elliot, and Hendrickson (SEH).**

**Reports concerning environmental aspects of Waite Avenue construction are on file with the MPCA, VIC.**

3. **Land use changes off site** G N/A

Remarks **See response to item 2 above.**

## VI. GENERAL SITE CONDITIONS

**A. Roads** G **Applicable** G N/A

1. **Roads damaged** G Location shown on site map G **Roads adequate** G N/A

Remarks **Roads adequate, but not part of remedy (ROD).**

**B. Other Site Conditions**

Remarks

## VII. LANDFILL COVERS G Applicable G **N/A**

## VIII. VERTICAL BARRIER WALLS G Applicable G **N/A**

## IX. GROUNDWATER/SURFACE WATER REMEDIES G **Applicable** G N/A

**A. Groundwater Extraction Wells, Pumps, and Pipelines** G **Applicable** G N/A

1. **Pumps, Wellhead Plumbing, and Electrical**
   G **Good Condition** G **All required wells properly operating** G Needs Maintenance G N/A
   Remarks **4 Municipal wells operated and maintained by City**

2. **Extraction System Pipelines, Valves, Valve Boxes, and Other Appurtenances**
   G **Good Condition** G Needs Maintenance
   Remarks **Plant is less than 10 years old**

3. **Spare Parts and Equipment**
   G **Readily available** G Good Condition G Requires upgrade Needs to be provided
   Remarks **Publically owned treatment works. Redundancy built in to ensure public water supply is always available**

**B. Surface Water Collection Structures, Pumps, and Pipelines** G Applicable G **N/A**

**C. Treatment System** G **Applicable** G N/A

1. **Treatment Train (check components that apply)** **4 Municipal wells**
   G Metals Removal G Oil/water separation G Bioremediation
   G **Air Stripping** G Carbon adsorbers
   G **Filters** **For iron and manganese removal for potable water. Not part of remedy (ROD)**
   G **Additive** (e.g., chelation agent, flocculent) _____
   G **Others** **CO2 injection post air stripper to keep calcium in solution, potassium permanganate for iron and manganese removal. Not part of remedy (ROD)Additive**
   G **Good Condition** G Needs maintenance
   G **Sample ports properly marked and functional**
   G **Sampling /maintenance log displayed and up to date**
   G **Equipment properly identified**
   G Quantity of groundwater treated annually **See Remarks**
   G Quantity of surface water treated annually **See Remarks**
   Remarks **3.5 MGD = Design; 1.5 MGD = current summer peak; 1.0MGD = typical, non-peak, flow**

2. **Electrical Enclosures and Panels** (properly rated and functional)
   G N/A G **Good Condition** G Needs Maintenance
   Remarks_____

3. **Tanks, Vaults, Storage Vessels**
   G N/A G **Good Condition** G Proper secondary containment G Needs Maintenance
   Remarks_____

4. **Discharge Structure and Appurtenances**
   G **N/A** G Good Condition G Needs Maintenance
   Remarks_____

5. **Treatment Building(s)**
   G N/A G **Good Condition** (esp. roof and doorways) G Needs repair
   G **Chemicals and equipment properly stored**
   Remarks_**Treatment plant chemicals are for potable water production. Not related to remedy (ROD)**

| | |
|---|---|
| 6. | **Monitoring Wells**<br>G Properly secured/locked G Functioning G Routinely sampled G Good condition<br>G All wells located G Needs Maintenance G N/A<br>Remarks **3 Monitoring Wells supposedly transferred by BN to City. City is not aware of wells. MPCA will provide more information, including maps.** |
| **D. Monitoring Data** | |
| 1. | **Monitoring Data for municipal wells and treated water**<br>G **Is routinely submitted on time** G **Is of acceptable quality** |
| 2. | **Monitoring data suggests:**<br>G Groundwater plume is effectively contained G Contaminant concentrations are declining<br>Remarks **Data not used to assess capture** |
| **E. Monitored Natural Attenuation** G Applicable G **N/A** | |

## X. OTHER REMEDIES

If there are remedies applied at the site which are not covered above, attach an inspection sheet describing the physical nature and condition of any facility associated with the remedy. An example would be soil vapor extraction.

## XI. OVERALL OBSERVATIONS

**A. Implementation of the Remedy**

Describe issues and observations relating to whether the remedy is effective and functioning as designed. Begin with a brief statement of what the remedy is to accomplish (i.e., to contain contaminant plume, minimize infiltration and gas emission, etc.).

**Treatment plant successfully reduces volatile organic hydrocarbon concentrations to achieve drinking water criteria.**

**B. Adequacy of O&M**

Describe issues and observations related to the implementation and scope of O&M procedures. In particular, discuss their relationship to the current and long-term protectiveness of the remedy.

**Treatment plant is well operated and maintained, consistent with its mission (i.e., to provide potable water to the citizens of Waite Park).**

**C. Early Indicators of Potential Remedy Problems**

Describe issues and observations such as unexpected changes in the cost or scope of O&M or a high frequency of unscheduled repairs, that suggest that the protectiveness of the remedy may be compromised in the future.

**Not applicable – No unexpected changes in scope or high frequency of repairs. Redundancy built into treatment plant design to ensure plant continues to operate when maintenance is required.**

**D. Opportunities for Optimization**

Describe possible opportunities for optimization in monitoring tasks or the operation of the remedy.

**Not applicable –treatment plant operated in a manner that meets the potable water demands of the citize3ns of Waite Park.**

# Waite Park Wells OU1 (Electric Machinery) Site Inspection

| I. SITE INFORMATION | |
|---|---|
| **Site name: Waite Park Wells OU1 (Electric Machinery)** | **Date of inspection: 10/28/09** |
| **Location and Region: Waite Park, MN / R5** | **EPA ID:MND981002249** |
| **Agency, office, or company leading the five-year review: MPCA/Bay West, Inc.** | **Weather/temperature: Cloudy, Drizzle, 45ºF** |

**Remedy Includes**: (**Bold and underline all that apply**)

G Landfill cover/containment
G Access controls
G **Institutional controls**
G Groundwater pump and treatment
G Surface water collection and treatment
G Monitored natural attenuation
G Groundwater containment
G Vertical barrier walls
G Other **Long Term Monitoring. The purpose of this inspection was to determine if the monitoring wells identified on the Annual Monitoring Reports (AMRs) were present and in good condition and if wells noted as abandoned were no longer present. In addition, the site was inspected for other wells not shown on AMRs. ICs were evaluated separately from the Site Inspection.**

**Attachments:** G **Inspection team roster attached** G Site map attached

**II. INTERVIEWS** (Check all that apply)

1. **O&M site manager ____none_____** _____ _____
2. **O&M staff _ none _ ___**
3. **Local regulatory authorities and response agencies** (i.e., State and Tribal offices, emergency response office, police department, office of public health or environmental health, zoning office, recorder of deeds, or other city and county offices, etc.) Fill in all that apply.

   Agency ____**MPCA**_____
   Contact _**Wayne Sarappo & Mike Bares** _**See attached roster for contact information**
4. **Other interviews** (optional). **No additional interviews performed during site inspection**.

# Waite Park Wells OU2 (Burlington Northern Car Shop) Site Inspection

| I. SITE INFORMATION | |
|---|---|
| **Site name: Waite Park Wells OU2 (Burlington Northern Car Shop)** | **Date of inspection: 10/28/09** |
| **Location and Region: Waite Park, MN / R5** | **EPA ID:MND981002249** |
| **Agency, office, or company leading the five-year review: MPCA/Bay West, Inc.** | **Weather/temperature: Cloudy, Drizzle, 45ºF** |

**Remedy Includes**: (**Bold and underline all that apply**)

- G **Landfill cover/containment**
- G **Access controls**
- G **Institutional controls**
- G Groundwater pump and treatment
- G Surface water collection and treatment
- G Other_____
- G Monitored natural attenuation
- G Groundwater containment
- G Vertical barrier walls

**Attachments:** G **Inspection team roster attached** G Site map attached

**II. INTERVIEWS** (Check all that apply)

1. **O&M site manager** ____none_____ _____ _____
   Name Title Date

2. **O&M staff** _Ron Holm & Kurt Geiser_ _see attached roster for contact information_ __10/28/09____
   Name Title Date
   Interviewed G **at site** G at office G by phone Phone no. _____

3. **Local regulatory authorities and response agencies** (i.e., State and Tribal offices, emergency response office, police department, office of public health or environmental health, zoning office, recorder of deeds, or other city and county offices, etc.) Fill in all that apply.

   Agency ___**USEPA Region 5**_____
   Contact ___**Ron Murawski**_____ **See attached roster for contact information**

   Agency ____**MPCA**_____
   Contact _**Wayne Sarappo & Mike Bares** _**See attached roster for contact information**

4. **Other interviews** (optional). **No additional interviews performed during site inspection**.

| III. ON-SITE DOCUMENTS & RECORDS VERIFIED (Check all that apply) | |
|---|---|
| 1. | **O&M Documents**<br>G O&M manual G Readily available G Up to date G N/A<br>G **As-built drawings can be found at AECOMS & BN's offices** G **Readily available** G **Up to date**<br>G Maintenance logs G Readily available G Up to date G N/A<br>Remarks __**No O&M manual or maintenance logs. O&M activities (e.g., mowing, quarterly inspections, leachate pumping) provided in Annual Monitoring Reports (AMRs) Quarterly Inspection Reports included in AMRs** |
| 2. | **Site-Specific Health and Safety Plan** G **Readily available** G **Up to date** G N/A<br>G **Contingency plan/emergency response plan** G **Readily available** G **Up to date** G N/A<br>Remarks **HASP Dated April 2007 was brought to the site by AECOM** |
| 3. | ~~**O&M and**~~ **OSHA Training Records** G **Readily available** G **Up to date** G N/A<br>Remarks **Not checked. At AECOMs office** |
| 4. | **Permits and Service Agreements**<br>G Air discharge permit G Readily available G Up to date G **N/A**<br>G Effluent discharge G Readily available G Up to date G **N/A**<br>G **Waste disposal, POTW** G Readily available G Up to date G N/A<br>G Other permits_____ G Readily available G Up to date G N/A<br>Remarks **Leachate removed quarterly, transported to St Paul, discharged to MCES at a transfer station under an MCES permit** |
| 5. | **Gas Generation Records** G Readily available G Up to date G **N/A**<br>Remarks_____ |
| 6. | **Settlement Monument Records** G Readily available G Up to date G **N/A**<br>Remarks **No monument @ BN cell. Not required by remedy (ROD)** |
| 7. | **Groundwater Monitoring Records** G **Readily available** G **Up to date** G N/A<br>Remarks **Records included in AMRs** |
| 8. | **Leachate Extraction Records** G **Readily available** G **Up to date** G N/A<br>Remarks **Records included in AMRs** |
| 9. | **Discharge Compliance Records**<br>G Air G Readily available G Up to date G **N/A**<br>G Water (effluent) G Readily available G Up to date G **N/A**<br>Remarks **No "effluent" from site. Leachate addressed in question 8.** |
| 10. | **Daily Access/Security Logs** G Readily available G Up to date G **N/A**<br>Remarks **No logs** |

## IV. O&M COSTS

1. **O&M Organization**
   G State in-house G Contractor for State
   G PRP in-house G **Contractor for PRP**
   G Federal Facility in-house G Contractor for Federal Facility
   G Other_____

2. **O&M Cost Records**
   G **Readily available** G **Up to date**
   G Funding mechanism/agreement in place
   Original O&M cost estimate_____ G Breakdown attached

   **Note: No state or federal funds. Records available upon request.**

3. **Unanticipated or Unusually High O&M Costs During Review Period**
   Describe costs and reasons: **NA**

## V. ACCESS AND INSTITUTIONAL CONTROLS G Applicable G N/A

**A. Fencing**

1. **Fencing damaged** G Location shown on site map G **Gates secured** G N/A
   Remarks **Fence post damaged on east side of cell, near location where city stockpiled cut down vegetation**

**B. Other Access Restrictions**

1. **Signs and other security measures** G Location shown on site map G N/A
   Remarks **No signs – gate entrance or anywhere else**.

**C. Institutional Controls (ICs)** **See Institutional Control Evaluation performed separately from Site Inspection which discusses the entire BN Site.**

**D. General**

1. **Vandalism/trespassing** G Location shown on site map G **No vandalism evident**
   Remarks_____

2. **Land use changes on site** G **N/A**
   Remarks_____

3. **Land use changes off site** G N/A
   Remarks **City constructed brush pile east of fence, damaged fence in process. Road to treatment plan closed/relocated. Road still maintained west and north of cell.**

## VI. GENERAL SITE CONDITIONS

**A. Roads** G Applicable G N/A

1. **Roads damaged** G Location shown on site map G **Roads adequate** G N/A
   Remarks **Roads adequate, but not part of remedy (ROD).**

**B. Other Site Conditions**

Remarks **A piece of metal air duct and minor amounts of trash/debris were present near the SE corner of fence**

## VII. LANDFILL COVERS G **Applicable** G N/A

### A. Landfill Surface

1. **Settlement** (Low spots) G Location shown on site map G **Settlement not evident**
   Areal extent_____ Depth_____
   Remarks_____

2. **Cracks** G Location shown on site map G **Cracking not evident**
   Lengths_____ Widths_____ Depths_____
   Remarks _____

3. **Erosion** G Location shown on site map G **Erosion not evident**
   Areal extent_____ Depth_____
   Remarks_____

4. **Holes** G Location shown on site map G Holes not evident
   Areal extent_____ Depth_____
   Remarks **One hole (animal burrow) on east side of cell. A couple of other indentations were located nearby.**

5. **Vegetative Cover** G Grass G **Cover properly established** G No signs of stress
   G Trees/Shrubs (indicate size and locations on a diagram)
   Remarks **A few ruts were observed apparently from recent mowing events. There were also a few areas where the cover was a little "thin", mainly on benches. Ruts and areas of thin vegetation were predominately located on the NW and SW corners, proximal to the benches.**

6. **Alternative Cover (armored rock, concrete, etc.)** G **N/A**
   Remarks_____

7. **Bulges** G Location shown on site map G **Bulges not evident**
   Areal extent_____ Height_____
   Remarks_____

8. **Wet Areas/Water Damage** G Wet areas/water damage not evident
   G Wet areas G Location shown on site map Areal extent_____
   G **Ponding** G Location shown on site map Areal extent_____
   G Seeps G Location shown on site map Areal extent_____
   G Soft subgrade G Location shown on site map Areal extent_____
   Remarks **Ponding was present between road and fence proximal to NE corner of cell. No ponding inside fenced area observed.**

9. **Slope Instability** G Slides G Location shown on site map G **No evidence of slope instability**
   Areal extent_____
   Remarks_____

### B. Benches G **Applicable** G N/A

(Horizontally constructed mounds of earth placed across a steep landfill side slope to interrupt the slope in order to slow down the velocity of surface runoff and intercept and convey the runoff to a lined channel.)

1. **Flows Bypass Bench** G Location shown on site map G ~~N/A or~~ **okay**
   Remarks_____

2. **Bench Breached** G Location shown on site map G ~~N/A or~~ **okay**
   Remarks_____

3. **Bench Overtopped** G Location shown on site map G ~~N/A or~~ **okay**
Remarks_____

**C. Letdown Channels** G **Applicable** G N/A
(Channel lined with erosion control mats, riprap, grout bags, or gabions that descend down the steep side slope of the cover and will allow the runoff water collected by the benches to move off of the landfill cover without creating erosion gullies.)

1. **Settlement** G Location shown on site map G **No evidence of settlement**
Areal extent_____ Depth_____
Remarks_____

2. **Material Degradation** G Location shown on site map G **No evidence of degradation**
Material type_____ Areal extent_____
Remarks_____

3. **Erosion** G Location shown on site map G **No evidence of erosion**
Areal extent_____ Depth_____
Remarks_____

4. **Undercutting** G Location shown on site map G **No evidence of undercutting**
Areal extent_____ Depth_____
Remarks_____

5. **Obstructions** Type_____ G **No obstructions**
G Location shown on site map Areal extent_____
Size_____
Remarks_____

6. **Excessive Vegetative Growth** Type_____
G **No evidence of excessive growth**
G **Vegetation in channels does not obstruct flow**
G Location shown on site map Areal extent_____
Remarks_____

**D. Cover Penetrations** G **Applicable** G N/A

1. **Gas Vents** G Active G **Passive**
G Properly secured/locked G Functioning G Routinely sampled G **Good condition**
G Evidence of leakage at penetration G Needs Maintenance
G N/A
Remarks_____

2. **Gas Monitoring Probes**
G Properly secured/locked G Functioning G Routinely sampled G Good condition
G Evidence of leakage at penetration G Needs Maintenance G **N/A**
Remarks_____

3. **Monitoring Wells** (within surface area of landfill)
G Properly secured/locked G Functioning G Routinely sampled G Good condition
G Evidence of leakage at penetration G Needs Maintenance G **N/A**
Remarks_____

4. **Leachate Extraction ~~Wells~~ Sump**
G Properly secured/locked G Functioning G Routinely sampled G **Good condition**
G Evidence of leakage at penetration G Needs Maintenance G N/A
Remarks_____

5. **Settlement Monuments** G Located G Routinely surveyed G **N/A**
Remarks **None on-site. Not required by remedy (ROD)**

**E. Gas Collection and Treatment** G Applicable G **N/A**

**F. Cover Drainage Layer** G **Applicable** G N/A

1. **Outlet Pipes Inspected** G Functioning G N/A
Remarks **Two pipes identified. One on east side and one on west side. Both were near the middle and appeared to slope inward toward the cell, rather than draining outward.**

2. **Outlet Rock Inspected** G **Functioning** G N/A
Remarks_____

**G. Detention/Sedimentation Ponds** G **Applicable** G N/A

1. **Siltation** Areal extent_____ Depth_____ G N/A
G Siltation not evident
Remarks **Infiltration swale on south side of cell contained no standing water. A ditch/infiltration swale on north side of cell, between fence and road contained standing water.**

2. **Erosion** Areal extent_____ Depth_____
G **Erosion not evident**
Remarks_____

3. **Outlet Works** G **Functioning** G N/A
Remarks_____

4. **Dam** G Functioning G **N/A**
Remarks_____
_____

**H. Retaining Walls** G Applicable G **N/A**

**I. Perimeter Ditches/Off-Site Discharge** G **Applicable** G N/A

1. **Siltation** G Location shown on site map G **Siltation not evident**
Areal extent_____ Depth_____
Remarks_____

2. **Vegetative Growth** G Location shown on site map G N/A
G **Vegetation does not impede flow**
Areal extent_____ Type_____
Remarks_____

3. **Erosion** G Location shown on site map G **Erosion not evident**
Areal extent_____ Depth_____
Remarks_____

4. **Discharge Structure** G **Functioning** G N/A
Remarks_____

**VIII. VERTICAL BARRIER WALLS** G Applicable G **N/A**

**IX. GROUNDWATER/SURFACE WATER REMEDIES** G Applicable G **N/A**

## X. OTHER REMEDIES

If there are remedies applied at the site which are not covered above, attach an inspection sheet describing the physical nature and condition of any facility associated with the remedy. An example would be soil vapor extraction.

## XI. OVERALL OBSERVATIONS

### A. Implementation of the Remedy

Describe issues and observations relating to whether the remedy is effective and functioning as designed. Begin with a brief statement of what the remedy is to accomplish (i.e., to contain contaminant plume, minimize infiltration and gas emission, etc.).

**Remedy functions as intended. Cell in good condition**

### B. Adequacy of O&M

Describe issues and observations related to the implementation and scope of O&M procedures. In particular, discuss their relationship to the current and long-term protectiveness of the remedy.

**Minor issues observed should be addressed before they become larger (e.g., animal burrows, rutted areas, areas of thin cover, debris and trash removal).**

**Proper signage should be put up to discourage trespassing and vandalism.**

### C. Early Indicators of Potential Remedy Problems

Describe issues and observations such as unexpected changes in the cost or scope of O&M or a high frequency of unscheduled repairs, that suggest that the protectiveness of the remedy may be compromised in the future.

**No unexpected changes in cost.**

**No unexpected changes in scope.**

**No unexpected changes in frequency of unscheduled repairs.**

### D. Opportunities for Optimization

Describe possible opportunities for optimization in monitoring tasks or the operation of the remedy.

**If any of the items described in item B become a more significant issue, the frequency of site inspections/ maintenance events (presently quarterly) may need to be increased.**

**4th Five Year Review Site Inspection Meeting**
**Waite Park Wells**
**October 28, 2009**

| Name | Affiliation and Address | Phone | E-mail |
|---|---|---|---|
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| Wayne Saroppo | MPCA<br>520 Lafayette Rd<br>St Paul MN 55155 | W – 651-757-2690<br>C – | wayne.saroppo@mn.state.us |
| Mike Bares | MPCA<br>520 Lafayette Rd<br>St. Paul MN 55155 | W – 651-757-2210<br>C – 651-343-2469 | mike.bares@state.mn.us |
| Shaina Botka | Bay West<br>5 Empire Dr.<br>St. Paul, MN 55103 | W – 651-291-3442<br>C – 651-785-3622 | shainab@baywest.com |
| Paul Walz | " | W – " 3491<br>C – 651 341-3268 | PaulW@BayWest.com |
| Bill Schluenz | City of WAITE PARK<br>P.O. Box 339<br>WAITE PARK, MN 56387 | W – 320-252-6822<br>C – 320-293-8729 | WSchluenz@waitepark.org |
| Ron Murawski | U.S. EPA, CHICAGO | W – 312-886-2940<br>C – | murawski.ronald@epa.gov |
| Kurt Geiser | AECOM | W – 612-247-2699<br>C – 651-222-0641 | Kurt.Geiser@AECOM.com |

| Name | Affiliation and Address | Phone | E-mail |
|---|---|---|---|
| Ron Holm | AECOM St. Paul | W – 651-222-0841<br>C – 715-222-9117 | ron.holm@aecom.com |
| | | W –<br>C – | |
| | | W –<br>C – | |
| | | W –<br>C – | |
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| | | W –<br>C – | |
| | | W –<br>C – | |

# Attachment G

# Photographs

## Waite Park Water Supply located on BN Site

| | |
|---|---|
| Photo No.: | 1 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: View of west side of City of Waite Park Water Treatment facility from the top of the BN containment cell, approximately 500 meters away from the treatment facility. The two towers are the two air stripper units that remove contaminants from the influent water. | |

| | |
|---|---|
| Photo No.: | 2 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Reportedly a containment cell/berm constructed to hold potentially impacted soils removed during the construction of the water treatment facility, located west of Waite Avenue North, and east of treatment plant but inside the fenced area. | |

**Waite Park Water Supply located on BN Site**

| | |
|---|---|
| Photo No.: | 3 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | S |
| Description: Reportedly a containment cell/berm constructed to hold potentially impacted soils removed during the construction of Waite Avenue. Located east of Waite Avenue North and the water treatment facility. | |

| | |
|---|---|
| Photo No.: | 4 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Erosion on western face of containment cell/berm shown in Photograph Figure 17. | |

**Waite Park Water Supply located on BN Site**

| | |
|---|---|
| Photo No.: | 5 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | NA |

Description: Surface of containment cell/berm shown in Photographs Figure 17 & 18.

Sparse grass coverage and loose top soil contributes to erosion of the containment cell.

| | |
|---|---|
| Photo No.: | 6 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | E |

Description: Erosion on western face of containment cell/berm shown in Photograph Figure 17.

Surface shows significant erosion and minimal coverage by vegetation.

**Waite Park Water Supply located on BN Site**

| | |
|---|---|
| Photo No.: | 7 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Delta at the base of the western face of containment cell/berm shown in Photograph Figure 17. | |

| | |
|---|---|
| Photo No.: | 8 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | S |
| Description: Likely monitoring well MPCA 13D, located along the north side of BN containment cell on 4th Avenue North. Cap appeared slightly damaged and bent. Well is located along former water treatment facility access road. No protective posts were present. | |

**Electric Machinery Site**

| | |
|---|---|
| Photo No.: | 8 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | S |

Description: Well labeled P3, not identified on site figures, located north of EM7S.

| | |
|---|---|
| Photo No.: | 9 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | SE |

Description: Close-up of P3, also pictured in Photograph 1. Well appears to be securely locked and in good condition.

## Electric Machinery Site

| | |
|---|---|
| Photo No.: | 10 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Well EM4S on Electric Machinery site, on south side of Grede Foundries building. Well is near traffic and parking area but is lacking traffic guard posts. | |

| | |
|---|---|
| Photo No.: | 11 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | N |
| Description: Two sheared off wells located near or in location identified as former EM39S. Well on right had a painted rock used to cover the well head. | |

**Electric Machinery Site**

| | |
|---|---|
| Photo No.: | 12 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | SE |
| Description: Close-up of two wells described in Photograph 4. Well in foreground appears to be in concrete casing, with rock to cover the open well head. Well in background has a metal pipe casing and no cover. | |

| | |
|---|---|
| Photo No.: | 13 |
| Location: | EM Site |
| Date: | 10/28/09 |
| Photo Direction: | W |
| Description: One of two abandoned wells shown in Photographs 4 & 5. Well appeared to have a metal casing but lacked a secure cover. | |

## Burlington Northern Site/Waite Park Wells

| | |
|---|---|
| Photo No.: | 17 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | NA |
| Description: Lysimeter, located just inside the fence on western face of BN containment cell. | |

| | |
|---|---|
| Photo No.: | 18 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | NA |
| Description: BN containment cell sump located just inside fenced area. Normal position of cover is closed and locked. | |

## Burlington Northern Site/Waite Park Wells

| | |
|---|---|
| Photo No.: | 16 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | N |
| Description: Drainage feature on north west corner of BN containment cell. Additional fencing was installed to secure the gap between the drainage rocks and the bottom of the existing fencing. | |

| | |
|---|---|
| Photo No.: | 15 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Brush pile located on northeast corner outside of fenced BN containment cell. Fencing appeared to be damaged in this area, potentially from brush pile activities. | |

## Burlington Northern Site/Waite Park Wells

| | |
|---|---|
| Photo No.: | 20 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: A burrow, about 3" diameter, located on the eastern face of the BN containment cell. | |

| | |
|---|---|
| Photo No.: | 21 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |
| Description: Tire markings and exposed soil on the western face of the BN containment cell. Damage to cover likely due to maintenance equipment such as a lawnmower. | |

## Burlington Northern Site/Waite Park Wells

| | |
|---|---|
| Photo No.: | 19 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | W |
| Description: Summit of the BN containment cell. Three white PVC vents appear to be in good condition. | |

## Rivers Edge Park (Area A of Burlington Northern Site)

| | |
|---|---|
| Photo No.: | 22 |
| Location: | BN Site |
| Date: | 10/28/09 |
| Photo Direction: | E |

Description: Large stockpile of unknown material located on the northwest edge of the Site/Rivers Edge Park, adjacent to the railroad bridge and close to disc golf hole #9. Note the bulldozer tracks approaching the stock pile.

| | |
|---|---|
| Photo No.: | 23 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | S |

Description: Additional view of stock pile in Photo 23. Note asphalt roofing material is present amongst other stockpiled debris, including soil, quarry stones, and railroad balast.

## Rivers Edge Park (Area A of Burlington Northern Site)

| | |
|---|---|
| Photo No.: | 24 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | NA |
| Description: Additional view of stock pile in Photo 23. Note railroad balast. Dense vegetation present on and near the stock pile. | |

| | |
|---|---|
| Photo No.: | 25 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | NW |
| Description: Additional unidentified stock pile located north of the baseball fields and 25 meters west of the park maintenance building owned by the City of Waite Park. The formation of the stock pile and tire tracks present on the surface suggest that the material has been used for bicycle activities. | |

## Rivers Edge Park (Area A of Burlington Northern Site)

| | |
|---|---|
| Photo No.: | 26 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | E |

Description: Looking at second unidentified stock pile in the foreground. A stock pile of baseball field soil and the park maintenance building are in the background.

| | |
|---|---|
| Photo No.: | 27 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | S |

Description: Note various debris in second stock pile including building materials, quarry debris, soil, and trash.

## Rivers Edge Park (Area A of Burlington Northern Site)

| | |
|---|---|
| Photo No.: | 28 |
| Location: | |
| Date: | 10/28/09 |
| Photo Direction: | SW |

Description: Looking down on a small, additional stock pile, next to railroad north of the baseball fields in River's Edge Park. The stock pile is made up of quarry and construction debris, and trash.

# Attachment H

# Interview Records

# Attachment H Interview Records

**INTERVIEW DOCUMENTATION FORM**

The following is a list of individual contacted for interviews for this five-year review. See the attached contact record(s) for a detailed summary of the interviews. Please note that only two responded to the interview requests.

| Name | Title/Position | Organization | Date |
|---|---|---|---|
| William Schluenz | Public Works Director | City of Waite Park | November 10, 2009 |
| Sheila Mockros | Building Assistant | City of Waite Park | November 10, 2009 |
| Mike Flanery | Grede Plant Engineer | Grede | November 10, 2009 |
| Brian Noma | Public Heath Engineer | MDH | November 10, 2009 |
| Rich Soul | Staff Hydrogeologist | MDH | November 10, 2009 |
| Jon Groethe | District Engineer | MDH | November 10, 2009 |
| Berthane Worku | Engineer | Metro Council Environmental Services | November 10, 2009 |

| INTERVIEW RECORD | |
|---|---|
| Site Name: Waite Park Wells | EPA ID Number: MND981002249 |
| Subject: 4th Five-Year Review | Date: November 10, 2009 |
| Type: Visit / Phone/**Email** | |
| **Contact Made By:** | |
| Name: Shaina Botka | Organization: Bay West<br>5 Empire Drive<br>St Paul, MN 55103 |
| Title: Associate Engineer | Phone/Email: 651-291-3442 / shainab@baywest.com |
| **Individual Contacted:** | |
| Name: **Bill Schluenz** | Organization: **City of Waite Park** |
| Title: **Public Works Director** | |
| Telephone Number:<br>**320.252.6822**<br>E-Mail Address:<br>**wschluenz@waitepark.org** | Street Address: **P.O. Box 339**<br>**Waite Park, MN 56387** |

**General Summary of Conversation:**

1. What is your overall impression of the project? (general sentiment) OK
2. What effects have site operations had on the surrounding community? None
3. Are you aware of any community concerns regarding the site or its operation and administration? If so, please give details? No
4. Are you aware of any events, incidents, or activities at the site such as vandalism, trespassing, or emergency responses from local authorities? If so, please give details. No
5. Do you feel well informed about the site's activities and progress?
Yes, but would like to receive a copy of the 5 year review for my file
6. Do you have any comments, suggestions, or recommendations regarding the site's management or operation? No
7. Do you have any other concerns or comments about the site? No

| INTERVIEW RECORD | |
|---|---|
| Site Name: Waite Park Wells | EPA ID Number: MND981002249 |
| Subject: 4th Five-Year Review | Date: November 10, 2009 |
| Type: Visit / Phone/**Email** | |
| **Contact Made By:** | |
| Name: Shaina Botka | Organization: Bay West<br>5 Empire Drive<br>St Paul, MN 55103 |
| Title: Associate Engineer | Phone/Email: 651-291-3442 / shainab@baywest.com |
| **Individual Contacted:** | |
| Name: Jon Groethe | Organization: MDH |
| Title: District Engineer | |
| Telephone Number:<br>E-Mail Address:<br>jon.groethe@state.mn.us | Street Address: Minnesota Department of Health<br>3333 W. Division Street, Suite 212<br>Midtown Square, St. Cloud MN 56301 |

**General Summary of Conversation:**

1. What is your overall impression of the project? (general sentiment)
The current twin aeration towers (providing redundancy and ease of maintenance) successfully and consistently remove original groundwater contaminants from the raw water. The new plant, constructed in 2002, should have sufficient capacity for the next 20 years. Contaminant levels are slowly decreasing in the aquifer aided by pumping operation of wells. MDH Source Water Protection has been implemented, such that the aquifer is strongly protected from further contamination. All things being equal, no finished water quality problems are anticipated, projecting into the future.

2. What effects have site operations had on the surrounding community?
Currently, none. There is a high degree of security-based physical separation (fences, surveillance, etc) between the land the treatment plant and wells are situated on and residential areas.

3. Are you aware of any community concerns regarding the site or its operation and administration? If so, please give details?
As District Engineer, I can personally attest to the fact that I have yet to receive concerned calls from Waite Park residents. There has been a fair amount of education over the last few years, and residents seem to be informed on the new treatment plant's capabilities. MDH Drinking Water Consumer Confidence Reports are released each year to Waite Park residents.

4. Are you aware of any events, incidents, or activities at the site such as vandalism, trespassing, or emergency responses from local authorities? If so, please give details.
As alluded to earlier, there has been a great many security measures implemented at Waite Park (fences, gated access, etc) . These security measures, added to the fact that Law Enforcement trains close to the plant, have mitigated greatly against vandalism and intrusion. I have never received any information citing a confirmed security breach.

5. Do you feel well informed about the site's activities and progress?
I talk to the utility manager often. As District Engineer, we have excellent communication channels.

6. Do you have any comments, suggestions, or recommendations regarding the site's management or operation?
Personally, I have no comments or recommendations. New security measures recently passed in congress may have impacts in the near future for storage of chlorine gas onsite, depending on guidelines that the EPA creates to facilitate the new federal rules.

7. Do you have any other concerns or comments about the site?
I have no other comments or concerns.