

Exhibit A

PARKING LOT LICENSE AGREEMENT

THIS PARKING LOT LICENSE AGREEMENT (this “**Agreement**”) is entered into this ____ day of _____, 2019 (the “**Effective Date**”), by and between the **CITY OF SAINT PAUL**, a Minnesota municipal corporation, as licensor (the “**City**”) and **CATHOLIC CHARITIES OF THE ARCHDIOCESE OF SAINT PAUL AND MINNEAPOLIS**, a Minnesota non-profit corporation (“**Catholic Charities**”), and **THE CHURCH OF THE ASSUMPTION**, a Minnesota parish corporation organized under Minnesota Statutes § 315.15 (the “**Church**”) (collectively Catholic Charities and the Church are referred to as the “**Licensee**”).

RECITALS

A. Catholic Charities is the developer of Higher Ground Saint Paul and 193 units of affordable permanent housing in Saint Paul, Minnesota (the “**Higher Ground Parcel**”), as depicted on the site plan attached hereto as Exhibit A (the “**Site Plan**”).

B. Catholic Charities is the developer of the Opportunity Center and 177 units of affordable permanent housing units as depicted on the Site Plan (the “**Opportunity Center Parcel**”).

C. The Higher Ground Parcel consists of Unit Number 1, Dorothy Day Condominium, Common Interest Community No. 815, Ramsey County, Minnesota (the “**HG Housing Portion**”) and Unit Number 2, Dorothy Day Condominium, Common Interest Community No. 815, Ramsey County, Minnesota (the “**HG Shelter Portion**”).

D. The HG Housing Portion is owned by Dorothy Day Housing Limited Partnership (the “**HG Partnership**”) and the HG Shelter Portion is owned by Dorothy Day Shelter LLC (“**Shelter LLC**”).

E. Catholic Charities is the sole member of the general partner of the HG Partnership, the sole member of Shelter LLC, and the property manager of the HG Housing Portion.

F. The Opportunity Center Parcel is owned by Dorothy Day Opportunity Center LLC (“**DD LLC**”) and the upper floors are leased to Dorothy Day Residence Limited Partnership (the “**DD Partnership**”) and it is anticipated that the property will be subjected to a condominium form of ownership so that the upper floors will be conveyed to the DD Partnership.

G. Catholic Charities is the sole member of the general partner of the DD Partnership, the sole member of DD LLC, and has entered into a property management agreement with the DD Partnership.

H. There is dedicated on the plat of St. Paul Companies Plat No. 1 a public right of way in favor of the City on certain land which is bordered by North Exchange Street, St. Joseph’s Lane and 7th Street West, as depicted and legally described on Exhibit B attached hereto and incorporated herein (the “**City Parcel**”) as also depicted on the Site Plan.

I. The Church owns the church building and related improvements located across St. Joseph's Lane from the City Parcel as depicted on the Site Plan (the "**Church Parcel**") and has an underlying fee interest in a portion of the City Parcel.

J. The Licensees have asked the City for a license to use the City Parcel and the City is willing to grant a license on the terms and conditions contained in this Agreement.

K. The Licensee and City have agreed that Catholic Charities will construct the Parking Facilities (as defined below) on the City Parcel and that Catholic Charities will operate the Parking Facilities on the City Parcel in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City, Catholic Charities, and the Church hereby agree as follows:

1. **GRANT.** In consideration of the fees, mutual promises, and covenants contained herein, City hereby grants the Licensee the exclusive right to use the City Parcel for purposes of constructing, operating and managing a parking facility and related improvements, fixtures and equipment (collectively, the "**Parking Facilities**"), all of which shall be constructed by Catholic Charities in accordance with the terms and provisions of the site plan conditionally approved by the City on January 10, 2019, as SPR File # 18-127878 and depicted in the drawing attached hereto as Exhibit C (collectively the site plan and drawing are referred to as the "**Development Plan**"). . The City Parcel is licensed to Licensee on an "**AS-IS, WHERE IS, WITH ALL FAULTS**" basis and Licensee acknowledges that the City has made no representations or warranties as to the condition, quality, buildability, or suitability for development of the City Parcel. The Licensee assumes all risks of all adverse matters that may affect the City Parcel, including but not limited to, adverse physical, environmental and geotechnical conditions. The Licensee hereby waive, relinquish and release the City from any claims, demands, causes of action, losses, damages and liabilities arising out of the Licensee's use of the City Parcel.

2. **TERM.** The initial term of this Agreement shall be for 30 years, commencing on [_____, 20__] (the "**Commencement Date**") and expiring on the day immediately preceding the 30th anniversary of the Commencement Date (the "**Initial Term**"). Provided that Catholic Charities is not then in default under this Agreement or this Agreement has not been terminated prior to the end of the Initial Term or an Extended Term, Catholic Charities shall have four options to extend the term of this Agreement, on the same terms and conditions, for additional periods of five (5) years each (each an "**Extended Term**"). If Catholic Charities elects not to extend the Agreement, the Church may elect to extend the term of this Agreement by giving notice between 180 and 90 days prior to the commencement of the applicable Extended Term. The term of this Agreement shall be deemed automatically extended for each Extended Term, unless, at least 180 days prior to the commencement of the applicable Extended Term, Catholic Charities gives written notice to City electing not to extend the term of this Agreement for the applicable Extended Term. Simultaneously, Catholic Charities shall give notice of the election not to renew to the Church. The Initial Term, together with each Extended Term, are collectively referred to herein as the "**Term**". If Catholic Charities does not elect to extend this Agreement and the Church elects to extend this Agreement, the Church shall be the sole Licensee and the Church shall assume all rights and obligations of Catholic Charities hereunder, and

Catholic Charities shall have no further obligations under this Agreement except to cure any existing monetary defaults.

3. LICENSE FEE. During the Term, Catholic Charities agrees to pay City-Public Works Department an annual license fee in the amount of \$5,425.00 (the “**License Fee**”), which shall be paid on the Commencement Date and on each anniversary thereof during the Term. The License Fee shall be increased annually at the rate of three percent (3%) per annum. Catholic Charities shall not be required to pay any other amounts to the City as a license fee. Catholic Charities shall also pay taxes in accordance with Section 4, utility costs in accordance with Section 5, and maintenance costs in accordance with Section 18.

4. PAYMENT OF TAXES AND ASSESSMENTS.

a. Payment of City Service Charges and Taxes Catholic Charities shall pay and discharge as they become due, promptly and before delinquency, all real estate taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or impositions, whether general or special or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, and kind (collectively the “City Service Charges”) which would be levied, assessed, charged, or which may become a lien or charge on or against the Parking Facilities or any portion of the City Parcel, and which would be payable by Licensee during the Term but for the fact that the City Parcel does not have a PIN assigned to it, excepting only those taxes hereinafter specifically excepted in subsection (c). For purposes of calculating City Service Charges against the City Parcel that rely on lineal frontage (currently, Street Maintenance Service Program fees) or acreage (currently, the Storm Sewer System Charge), Catholic Charities agrees to obtain the consent and approval of the Owner, as herein defined, to an adjustment to the frontage and acreage identified with the tax parcel adjoining and westerly of the City Parcel and currently owned by Dorothy Day Opportunity Center LLC (“Owner”) (Parcel ID No. 06-28-22-22-0102), as shown in Exhibit G.

b. Assessments Affecting Improvements. Specifically, but without any way limiting the generality of the requirements of subsection (a), Catholic Charities shall pay all special assessments and levies or charges related to the City Parcel due to any municipal or political subdivision for local improvements before they shall become delinquent, or in installments each year as assessed by any such municipal or political subdivision. If, by making any such election to pay in installments, any such installments shall be payable after the termination of this Agreement, such unpaid installments shall be paid entirely by Catholic Charities.

c. Taxes Excepted. Anything in this section to the contrary notwithstanding, Catholic Charities shall not be required to pay any tax that might become due on account of ownership of property other than the City Parcel which may become a lien on the City Parcel or collectible out of the City Parcel.

d. Contesting Taxes. If Catholic Charities shall in good faith desire to contest the validity or amount of any tax, assessment, levy, or other governmental charge herein agreed to be paid by Catholic Charities, Catholic Charities shall be permitted to do so but

must first make timely payment of such tax or charge and then request a refund in such contest.

e. Disposition of Rebates. All rebates on account of any such taxes, rates, levies, charges, or assessments required to be paid and paid by Catholic Charities under the provisions hereof shall belong to Catholic Charities, and the City will on the request of Catholic Charities execute any receipts, assignments, or other acquittances that may be necessary on the City Parcel in order to secure rebates that may be received by the City. All rebates on account of any such taxes, rates, levies, charges, or assessments paid by the City shall belong to the City, provided Catholic Charities has not reimbursed the City for such payments and Catholic Charities shall have no obligation to reimburse the City to the extent of such rebates received and retained by the City.

f. City's Right to Pay Taxes on Behalf of Catholic Charities. In the event Catholic Charities shall fail to comply with the preceding terms of this Section, City may, but shall not be obligated to, pay any such taxes or assessments, including accrued interest or late payment fees, and charge it, plus interest on such amount at the reference rate announced from time to time by U.S. Bank National Association per annum from the date paid by City, as an additional license fee immediately due and payable[_, subject, however, to subsection (d) above_].

g. Receipts. Catholic Charities shall at the request of City deliver to City receipts or duplicate receipts for all taxes, assessments, and other items required hereunder to be paid by Catholic Charities, promptly on payment thereof.

h. Acknowledgement. Catholic Charities acknowledges that the City has made no representations or warranties of any kind with respect to the amount of any real estate taxes, special assessments, or other charges which may be levied against the City Parcel throughout the Term. City agrees to cooperate with Catholic Charities in the taking of any reasonable action determined by Catholic Charities to be necessary to obtain or maintain tax exempt status for Catholic Charities' use of the City Parcel, provided, however, that Catholic Charities shall be responsible for all actual out of pocket costs and expenses incurred by City in connection with such cooperation.

5. PAYMENT OF UTILITIES. Catholic Charities shall fully and promptly pay for all water, gas, heat, light, power, telecommunications, and all other utilities of every kind furnished to the City Parcel throughout the Term, and City shall have no responsibility of any kind for any thereof.

6. CATHOLIC CHARITIES REPRESENTATIONS, WARRANTIES AND COVENANTS. Catholic Charities covenants with and warrants and represents to the City and the Church as follows:

a. It has legal authority to enter into, execute, and deliver this Agreement, and that it has taken all corporate and other actions necessary and incident to its execution and delivery of such documents.

b. It has made no material false statement, or material misstatement of fact, in connection with its receipt of this Agreement, and all of the information previously submitted to City, or to be submitted to City in the future, relating to this Agreement, is and will be true, complete and correct by Catholic Charities in all material respects.

c. Neither the execution or delivery of this Agreement, nor compliance with any of the terms, conditions, requirements, or provisions contained herein, is prevented by, is a breach of, or will result in a breach of any term, condition, or provision of any agreement or document to which it is now a party, or by which it, or any of its properties, is bound.

d. The execution and delivery of this Agreement by Catholic Charities will not constitute a violation of any provisions of its Articles of Incorporation or Bylaws, or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to the actual knowledge of the undersigned officers of Catholic Charities, threatened, before or by any judicial body or governmental authority against or affecting it relating to the City Parcel, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into this Agreement, or to perform any of the acts required of it in this Agreement.

e. It has sufficient funds to complete the construction of the Parking Facilities and perform all of its obligations hereunder.

7. CHURCH REPRESENTATIONS, WARRANTIES AND COVENANTS. The Church covenants with and warrants and represents to the City and Catholic Charities as follows:

a. It has legal authority to enter into, execute, and deliver this Agreement, and that it has taken all corporate and other actions necessary and incident to its execution and delivery of such documents.

b. It has made no material false statement, or material misstatement of fact, in connection with its receipt of this Agreement, and all of the information previously submitted to the City, or to be submitted to the City in the future, relating to this Agreement, is and will be true, complete and correct by the Church in all material respects.

c. Neither the execution or delivery of this Agreement, nor compliance with any of the terms, conditions, requirements, or provisions contained herein, is prevented by, is a breach of, or will result in a breach of any term, condition, or provision of any agreement or document to which it is now a party, or by which it, or any of its properties, is bound.

d. The execution and delivery of this Agreement by the Church will not constitute a violation of any provisions of its Articles or Bylaws, or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to the actual knowledge of the undersigned officers of the Church, threatened, before or by any judicial body or governmental authority against or affecting it relating to the City Parcel, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or

any governmental authority which would impair its ability to enter into this Agreement, or to perform any of the acts required of it in this Agreement.

8. CITY REPRESENTATIONS, WARRANTIES AND COVENANTS. The City covenants with and warrants and represents to Catholic Charities and the Church as follows:

a. It has legal authority to enter into, execute, and deliver this Agreement, and that it has taken all official and other actions necessary and incident to its execution and delivery of such documents.

b. Neither the execution or delivery of this Agreement, nor compliance with any of the terms, conditions, requirements, or provisions contained herein, is prevented by, is a breach of, or will result in a breach of any term, condition, or provision of any agreement or document to which it is now a party, or by which it, or any of its properties, is bound.

c. The execution and delivery of this Agreement by the City will not constitute a violation of any provisions of its charter, or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to the actual knowledge of the undersigned officers of the City, threatened, before or by any judicial body or governmental authority against or affecting it relating to the City Parcel, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into this Agreement, or to perform any of the acts required of it in this Agreement.

9. NO WARRANTIES OF TITLE, CITY INSPECTIONS. The City is not making any warranties or representations of title. The Licensee acknowledges it has made a search of title and is relying solely on its own investigation of title in entering into this Agreement.

Catholic Charities and the Church shall permit City and the agents and employees of the City to enter into and on the City Parcel at all reasonable times during business hours and upon reasonable prior notice for the purpose of inspecting the City Parcel.

10. USE OF CITY PARCEL, CHURCH USE AGREEMENT. Subject to the other terms and provisions contained herein, Catholic Charities and the Church shall be permitted to use the City Parcel only for the construction, operation and maintenance of the Parking Facilities for purposes of parking passenger motor vehicles and pedestrian access and for no other use. Subject to the Church Use Agreement (as defined below) with the Church, Catholic Charities may charge such parking charges to users of the Parking Facilities as may be reasonably determined by Catholic Charities. The parties acknowledge that the Parking Facilities will serve to promote the public interest of the City of St. Paul by (1) providing additional parking for sporting, entertainment and other events hosted at Xcel Arena or RiverCentre, (2) providing parking for the Church, and (3) providing parking for employees of Catholic Charities and visitors to the Higher Ground Parcel and Opportunity Center Parcel. Contemporaneously with the execution of this Agreement, Catholic Charities will enter into a use agreement with the Church (the “**Church Use Agreement**”) in the form attached hereto as Exhibit E allowing the Church, and its respective employees, customers, parish members, and invitees to use certain parking spaces within the

Parking Facilities in accordance with the terms and conditions of the Church Use Agreement. The City hereby approves of Catholic Charities and the Church entering into the Church Use Agreement.

11. CONSTRUCTION OF IMPROVEMENTS. Catholic Charities agrees to construct at its own expense the Parking Facilities in accordance with plans and specifications developed by Catholic Charities and its architect and approved by the Church and the City in the Site Plan Review Report dated January 19, 2019 (the “**Plans**”). Construction must comply with all applicable local, state and federal laws, ordinances regulations, and rules. Catholic Charities shall obtain the City’s approval to any material changes in the Plans, including reductions in the number of parking spaces, changes in the square footage of the parking lot by more than 10%, elimination of any ingress or egress points, the reduction in lighting or any other changes that would require approval under the City’s Zoning Code. Catholic Charities shall also obtain the approval of the Church as required by the Church Use Agreement. Catholic Charities shall commence the construction of the Parking Facilities within _____ days after the date of this Agreement and use all commercially reasonable efforts to substantially complete the Parking Facilities within _____ days of the date hereof, subject to unavoidable delays. Unavoidable delays are defined as those events beyond the control of Catholic Charities. Catholic Charities shall provide the City monthly progress reports during the construction of the Parking Facilities which shall include updates on material changes in the projected completion date and the construction costs as shown in the sources and uses statement in Exhibit F. Any change by more than 25% in the Development Costs must be approved by the City, which approval shall not be unreasonably withheld, conditioned, or delayed. For purposes of this Agreement, development costs shall include all capital costs incurred by Catholic Charities in constructing the Parking Facilities determined in accordance with generally accepted accounting principles (the “**Development Costs**”). The amount of Development Costs shall be memorialized after completion of construction of the Parking Facilities by the Licensee delivering to the City a certificate of final Development Costs within thirty (30) days after such completion.

12. TERMINATION OPTION OF CITY. Notwithstanding anything to the contrary in this Agreement, the City may cancel this Agreement at any time by giving written notice to Catholic Charities at least one year prior to the effective date of the termination and by simultaneously paying the Termination Fee to Catholic Charities. The “**Termination Fee**” shall be an amount equal to the unamortized portion of the Development Costs, with such amortization being over a period of 15 years (the “**Amortization Period**”) together with interest at six percent (6%) per annum. If this Agreement is terminated by the City after the Amortization Period, the City shall have no obligation to pay any Termination Fee. For purposes of determining the Termination Fee under this section 12, Development Costs shall not exceed \$1,200,000.00

13. PARKING FACILITY OPERATIONS. All Parking Facilities operations will be conducted in a commercially reasonable manner consistent with the Church Use Agreement in accordance with applicable City and other applicable ordinances, laws, rules and regulations, [and obtain any required permits and licenses for event and other parking activities_]. Catholic Charities will at all times operate the Parking Facilities itself or contract with a reputable parking facility operator, to be approved by the City, which consent shall not be unreasonably withheld, delayed, or denied. Catholic Charities shall develop an annual operational plan to be submitted to the City. Unless approved in writing by the City, which approval shall not be unreasonably

withheld, Catholic Charities shall only use the Parking Facilities for the uses set forth in Section 10.

14. ENCUMBRANCES BY CATHOLIC CHARITIES. Neither Catholic Charities nor the Church shall encumber the City Parcel by mortgage or similar consensual lien, however, the parties agree that the Church Use Agreement is permitted and shall be deemed a permitted encumbrance.

15. SUBLETTING AND ASSIGNMENTS. Other than the Church Use Agreement and leases of individual parking stalls on an hourly basis, the Licensee shall not assign any of their rights hereunder, or sublet all or any portion of the City Parcel, without City's prior written consent.

16. NOTICES. All communications, reports, requests for City review and approval, demands, notices, or objections permitted or required to be given or served under this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered in person to the other party or its authorized agent or two (2) days after being deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, return receipt requested, and addressed to the other party to this Agreement, to the address set forth next to such party's signature at the end of this Agreement, or if to a person not a party to this Agreement, at the following addresses:

To City: City of Saint Paul
25 West Fourth Street, Suite 1500
Saint Paul, MN 55102
Attn: Director of Public Works

With a copy to:
City Attorney Office
Room 400, City Hall
15 W. Kellogg Boulevard
Saint Paul, Mn 55102

To Catholic Charities: Catholic Charities of the Archdiocese
of Saint Paul and Minneapolis
1200 Second Avenue South
Minneapolis, MN 55403
Attn: Richard Johnson

To the Church: The Church of the Assumption
51 7th Street West
Saint Paul, MN 55102
Attn: Father Paul Treacy

Any party may change its address by giving notice in writing, stating its new address, to any other party as provided in the foregoing manner. Commencing on the tenth (10th) day after the giving of such notice, such newly designated address shall be such party's address for the

purposes of all communications, demands, notices, or objections permitted or required to be given or served under this Agreement.

17. ALTERATIONS. Other than the Parking Facilities, Catholic Charities and the Church shall not make further alterations, improvements, or changes to the City Parcel, without City's approval which shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, Catholic Charities may install and revise signage of the City Parcel as required by applicable law or for proper operation of the City Parcel. The Parking Facilities and any additional improvements shall be constructed in material compliance with all applicable federal, state and local laws, rules and regulations; and in compliance with the terms and conditions of all applicable licenses and permits; and shall, upon termination or expiration of this Agreement, become the property of City.

18. REPAIRS AND DESTRUCTION OF IMPROVEMENTS.

a. Maintenance of Parking Facilities. Catholic Charities shall, throughout the Term, at its own cost and without any expense to or obligation of the City, keep and maintain the Parking Facilities in good, sanitary, lawful, and neat order, condition, and repair and, except as specifically provided herein, shall restore and rehabilitate the Parking Facilities which may be destroyed or damaged by fire, casualty, or any other cause whatsoever, provided that the Church shall repair any damage caused by the negligence or willful misconduct of the Church or its invitees.

b. Damage to and Destruction of Parking Facilities. The damage or destruction or partial destruction of the Parking Facilities shall not release Catholic Charities from any obligation hereunder, except as hereinafter expressly provided. In case of damage to or destruction of the Parking Facilities, Catholic Charities shall at its own expense promptly repair and restore the same to a condition as good or better than that which existed prior to such damage or destruction, and Catholic Charities shall have the right to any insurance proceeds the premium for which has been paid by Catholic Charities to be used by Catholic Charities to pay the cost of such repair and restoration.

19. MECHANICS' LIENS. Catholic Charities hereby covenants and agrees that Catholic Charities will not permit or allow any mechanics' or material supplier's liens to be placed on the City's interest in the City Parcel during the Term. Notwithstanding the previous sentence, however, in the event any lien shall be so filed against the City's interest, Catholic Charities shall take all steps necessary to remove it within 120 days of its being filed; provided, however, that Catholic Charities may contest any such lien provided Catholic Charities first posts a surety bond, letter of credit, cash, or other collateral acceptable to the City to protect City from foreclosure thereof.

20. INDEMNIFICATION OF CITY.

a. To the fullest extent permitted by law, Catholic Charities shall, and hereby does, indemnify, save, hold harmless, and defend the City, its officials, employees, representatives, attorneys, and agents but only when acting in their capacities as such (collectively, the "**Indemnified Party**" or "**Indemnified Parties**"), from and against all

claims, costs (including reasonable attorneys' fees), liabilities, losses, or damages suffered or incurred by any of the Indemnified Parties arising from or as a result of any loss, injury, death, or damage to persons or property arising out of the use, possession, construction of the Parking Facilities, operation, or maintenance of the City Parcel or any part thereof (“**Claims**”), excluding any loss, injury, death, or damage shall be caused by or in any way result from or arise out of any willful act, omission, or gross negligence of Indemnified Parties.

b. Promptly after receipt by an Indemnified Party of notice of the commencement of any action for which Catholic Charities has indemnified the Indemnified Parties hereunder, the Indemnified Party will notify Catholic Charities in writing of the commencement thereof, and, subject to the provisions hereinafter stated, Catholic Charities shall assume, at its expense, the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to the Indemnified Parties) insofar as such action shall relate to any alleged liability for which Catholic Charities has indemnified the Indemnified Parties hereunder. The Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of Catholic Charities unless (i) the employment of such counsel has been specifically authorized by Catholic Charities, or (ii) the named parties to any such action (including any impleaded parties) include more than one of the Indemnified Parties and a conflict of interest among Catholic Charities and Indemnified Parties exists, and as a result Catholic Charities and the Indemnified Parties cannot adequately be represented by the same counsel. In the case of such a conflict of interest, Catholic Charities shall not have the right to assume the defense of such action on behalf of such Indemnified Parties and the Indemnified Party shall have the right to select separate counsel, at the expense of Catholic Charities but subject to the limitation set forth in the following sentence, to assume such legal defense and to otherwise participate in the defense of such action on behalf of the Indemnified Parties. In connection with any one such action or separate but substantially arising out of the same general allegations or circumstances, Catholic Charities shall not be liable for the fees and expenses of more than one separate firm of attorneys for all such Indemnified Parties, which firm shall be reasonably acceptable to Catholic Charities and shall be designated in writing by the Indemnified Parties. Catholic Charities shall not be liable for any settlement of any such action effected without its written consent. If such action is settled with the written consent of Catholic Charities, or if there be a final judgment for the plaintiff in any such action, with or without the consent of Catholic Charities, Catholic Charities agrees to indemnify and hold harmless the Indemnified Parties from and against any loss or liability by reason of such settlement or judgment, but only to the extent provided in Section 20(a). This indemnity includes reimbursement for expenses reasonably incurred by any of the Indemnified Parties in investigating the claim and in defending it if Catholic Charities declines to assume the defense.

c. Nothing herein shall prevent Catholic Charities from bringing an action against the Church to the extent it is liable for any Claims. The City acknowledges that the Church Use Agreement contain the obligation of the Church to indemnify the City and Catholic Charities to the extent any of the Claims result from the negligence or willful misconduct of the Church.

21. INSURANCE. Catholic Charities shall purchase and thereafter maintain during the Term, the policies of insurance described on Exhibit D. Each such policy shall be written by a company reasonably acceptable to City. Catholic Charities shall supply to City, concurrently with signing this Agreement and thereafter on an annual basis or more frequently as reasonably requested by City, current insurance certificates and endorsements for policies required in this Section. Catholic Charities shall promptly furnish to City all endorsements and other written notices which reduce any insurance coverage with respect to the City Parcel or Catholic Charities' operations thereon and obtain comparable insurance with other insurers to assure continuous coverage hereunder. Catholic Charities shall place the insurance with responsible insurance companies authorized and licensed to do business in the State of Minnesota having an A.M. Best Company rating of at least A:VIII. The policies required in this Section shall be endorsed to indicate that the insurer cannot cancel or reduce the insurance coverage without first giving City thirty (30) days' written notice. Catholic Charities shall pay all of the premiums therefor. In the event of the failure of Catholic Charities, either to effect such insurance in the names called for or to pay the premiums therefor or to deliver such policies or certificates thereof to the City, the City shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums therefor. Such premiums, together with interest thereon at the rate of six percent (6%) per annum accruing from the date of payment by the City, shall be repayable to the City within thirty (30) days after written notice of the payment of such insurance.

22. EFFECT OF EMINENT DOMAIN.

a. Effect of Total Condemnation. In the event that the entire City Parcel shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Agreement shall be terminated and the City is entitled to all the proceeds for the taking of the City Parcel, provided if the City Parcel is appropriated or taken as a result of an action by the City, the City shall pay the Termination Fee to the extent that Catholic Charities does not receive an award for the Parking Facilities.

b. Effect of Partial Condemnation. In the event that a portion of the City Parcel shall be so appropriated or taken and the remainder thereof shall not be suitable for the use then being made thereof by Catholic Charities, as determined by Catholic Charities, then Catholic Charities shall have the right to give the City written notice of termination of this Agreement within 180 days after such portion of the City Parcel has been appropriated or taken. If Catholic Charities elects to terminate this Agreement, the Church may elect to continue this Agreement by giving written notice to the City within ninety (90) days after Catholic Charities gives written notice to the City terminating this Agreement. If Catholic Charities does not elect to extend this Agreement and the Church elects to extend this Agreement, the Church shall be the sole licensee and the Church shall assume all rights and obligations of Catholic Charities hereunder, and Catholic Charities shall have no further obligations under this Agreement except to cure any existing monetary defaults. In the event of partial taking in which Catholic Charities elects to continue this Agreement in the City Parcel, this Agreement shall continue in full force as to the part not taken, and the condemnation award for the City Parcel shall be applied first to restore the remaining portion of the City Parcel to a configuration and condition so that the City Parcel can be used for the purposes permitted under this Agreement (with the condemnation proceeds to be held by a mutually agreeable escrow agent in escrow for such restoration to be disbursed

in accordance with standard commercial construction conditions customarily required by institutional lenders), and second any unused proceeds shall belong to the City.

c. Award. Catholic Charities shall be entitled to make a separate claim against the condemning authority for the value of the Parking Facilities paid for by Catholic Charities and any relocation expenses.

23. DEFAULT, REMEDIES, ENFORCEMENT OF AGREEMENT, TERMINATION.

a. Default by Licensee. In the event of a material breach by Licensee of its obligations under this Agreement, and after the City's delivery of thirty (30) calendar days prior written notice of said breach, and the failure of Licensee to cure such breach, the City may terminate this Agreement and revoke the license granted herein. Upon such termination under this section 23 or termination under any other provision of this Agreement, Licensee shall immediately surrender and vacate the City Parcel. Notwithstanding the foregoing, if the breach cannot reasonably be cured within thirty (30) calendar days, the breach may be cured within a reasonable period of time not to exceed ninety (90) days if the Licensee is diligently pursuing a cure. Upon termination of this Agreement, Licensee acknowledges and agrees that the parking lot on its adjacent property will no longer have access over and across the City Parcel. Licensee further acknowledges and agrees that no remedy conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, and thus the City shall be entitled forthwith to full and adequate other relief under both law and equity to enforce Licensee's obligations hereunder, including, but not limited to an action for money damages.

If Licensee defaults under any of the provisions of this Agreement and the City employs attorneys or incurs other expenses for the collection of amounts due hereunder or the enforcement of performance of any obligation or agreement on the part of Licensee, Licensee will on demand pay to the City the reasonable fee of such attorneys and such other expenses so incurred.

b. Default by City. If the City defaults under this Agreement and fails to cure such default after delivery of thirty (30) days written notice from Licensee, the Licensee's sole remedy shall be to seek specific performance of this Agreement and the Licensee shall not be entitled to damages of any kind.

24. AMENDMENT, MODIFICATION, AND WAIVER. No amendment, modification, or waiver of any condition, provision, or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound or its duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default.

25. PARTIES BOUND. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective assigns, executors, heirs, and successors.

26. SEVERABLE PROVISIONS. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, sentence, clause, phrase, and word hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement.

27. ENTIRE AGREEMENT. This Agreement, including the Church Use Agreement, contain the entire understanding of the parties hereto with respect to the transactions contemplated hereby and supersede all prior agreements and understandings between the parties with respect to such subject matter. No representations, warranties, undertakings, or promises, whether oral, implied, written, or otherwise, have been made by either party hereto to the other unless expressly stated in this Agreement or unless mutually agreed to in writing between the parties hereto after the date hereof, and neither party has relied on any verbal representations, agreements, or understandings not expressly set forth herein.

28. MINNESOTA LAW. This Agreement shall be construed and enforced in accordance with the laws of the State of Minnesota.

29. HAZARDOUS WASTE POLLUTION AND CONTAMINANTS.

a. For purposes of this Section 29, the following defined terms shall have the following meanings:

(1) Hazardous Substance means asbestos, ureaformaldehyde, polychlorinated biphenyls (“PCBs”), nuclear fuel or material, chemical waste, radioactive material, explosives, known carcinogens, petroleum products and by-products and other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law;

(2) Environmental Laws means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., the Hazardous Materials Transportation Act, §1802 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., the Clean Air Act, 33 U.S.C. §1321 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., the Minnesota Environmental Response and Liability Act, Minn. Stat. Ch. 115B, the Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. Ch. 115C, and any other federal, state, county, municipal, local or other statute, law relating to Hazardous Substances;

b. Catholic Charities agrees to comply with all Environmental Laws applicable to the City Parcel. Catholic Charities shall bear all costs and expenses arising from compliance with all Environmental Laws. If Catholic Charities fails to comply with any Environmental Laws, City shall have the right, but not the obligation, to undertake such compliance and charge Catholic Charities the costs of compliance plus interest at six percent (6%) per annum accruing from the date of disbursement and also with reasonable attorney fees.

c. Catholic Charities agrees to defend, indemnify and hold harmless City, its officers, employees and agents (hereinafter collectively referred to as the “**Indemnitees**”) from and against and shall reimburse each such Indemnatee for any and all loss, claim, liability, damage, judgment, penalty, injunctive relief, injury to person, property or natural resources, cost, expense, action or cause of action arising in connection with or as the result of the existence, use, handling, storage, transportation, manufacture, release or disposal of any Hazardous Substance in, on or under the City Parcel during the Term, including without limitation any liability related to Hazardous Substances that exist on the City Parcel as of the date hereof (hereinafter collectively referred to as “**Loss**”). The foregoing indemnification against Loss includes, without limitation, indemnification against all costs in law or in equity of removal, response, investigation, or remediation of any kind, and disposal of such Hazardous Substances, all costs of determining whether the City Parcel are in compliance with, and of causing the City Parcel to be in compliance with, all applicable Environmental Laws, all costs associated with claims for damages to persons, property, or natural resources, and the Indemnitees’ reasonable consultants’ fees, court costs and expenses incurred in connection with any thereof. The indemnity provided for in this Section 28 shall apply to any Loss incurred by the Indemnitees as a result of Hazardous Substances introduced in, on or under the City Parcel prior to, on and/or after the date of the Agreement.

d. The obligations of Catholic Charities to indemnify the Indemnitees under any section of this Agreement shall survive expiration or termination of this Agreement. The rights of the Indemnitees hereunder shall be in addition to any other rights or remedies which the Indemnitees may have against Catholic Charities under this Agreement or any other document, or at law or in equity.

30. WAIVER OF SUBROGATION. Catholic Charities, on behalf of itself and its insurer, hereby waives all claims and rights of recovery against City which it would, but for this Section, have to City for losses occurring to the Improvements, to the extent actually covered by insurance required to be carried by the party waiving; or to the extent actually covered by any other insurance being carried by the party waiving at the time of such occurrence.

31. COMPLIANCE WITH LAWS. Catholic Charities agrees that it will comply with all present and future laws, ordinances, and regulations, as amended and in effect from time to time, applicable to its use, occupancy, alteration or improvement of the City Parcel.

32. CURE BY THE CHURCH. In the event that Catholic Charities fails to perform any of its obligations under this Agreement, before exercising any remedies hereunder, the City shall give notice to the Church and the Church shall have the right but not the obligation to cure the default within thirty (30) days or such longer time as is reasonably required to cure the default provided that the Church is diligently pursuing the cure of the default. In the event that the Church cures the default, Catholic Charities shall reimburse the Church for the reasonable costs of the cure.

33. EXHIBITS INCORPORATED. The following exhibits attached hereto are incorporated into this Agreement as if fully set forth herein:

- Exhibit A – Site Plan
- Exhibit B – Legal Description
- Exhibit C – Development Agreement
- Exhibit D – Insurance Requirements
- Exhibit E – Church Use Agreement
- Exhibit F – Sources and Uses
- Exhibit G – Frontage and Acreage Map

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF SAINT PAUL,
a Minnesota municipal corporation

By: _____
Its: Mayor

And By: _____
Its: Director, Department of Public Works

And By: _____
Its: Director, Office of Financial Services

Approved as to form

Assistant City Attorney

CATHOLIC CHARITIES:

**CATHOLIC CHARITIES OF THE
ARCHDIOCESE OF SAINT PAUL AND
MINNEAPOLIS**

By:

Richard R. Johnson

Vice President and Chief Financial Officer

CHURCH:

THE CHURCH OF THE ASSUMPTION

By: _____

Its: _____

EXHIBIT A
SITE PLAN



CAMPUS AERIAL VIEW

DOROTHY DAY REVISIONING
Catholic Charities of Saint Paul & Minneapolis
1 February 2019

 CERMAK RHOADES ARCHITECTS

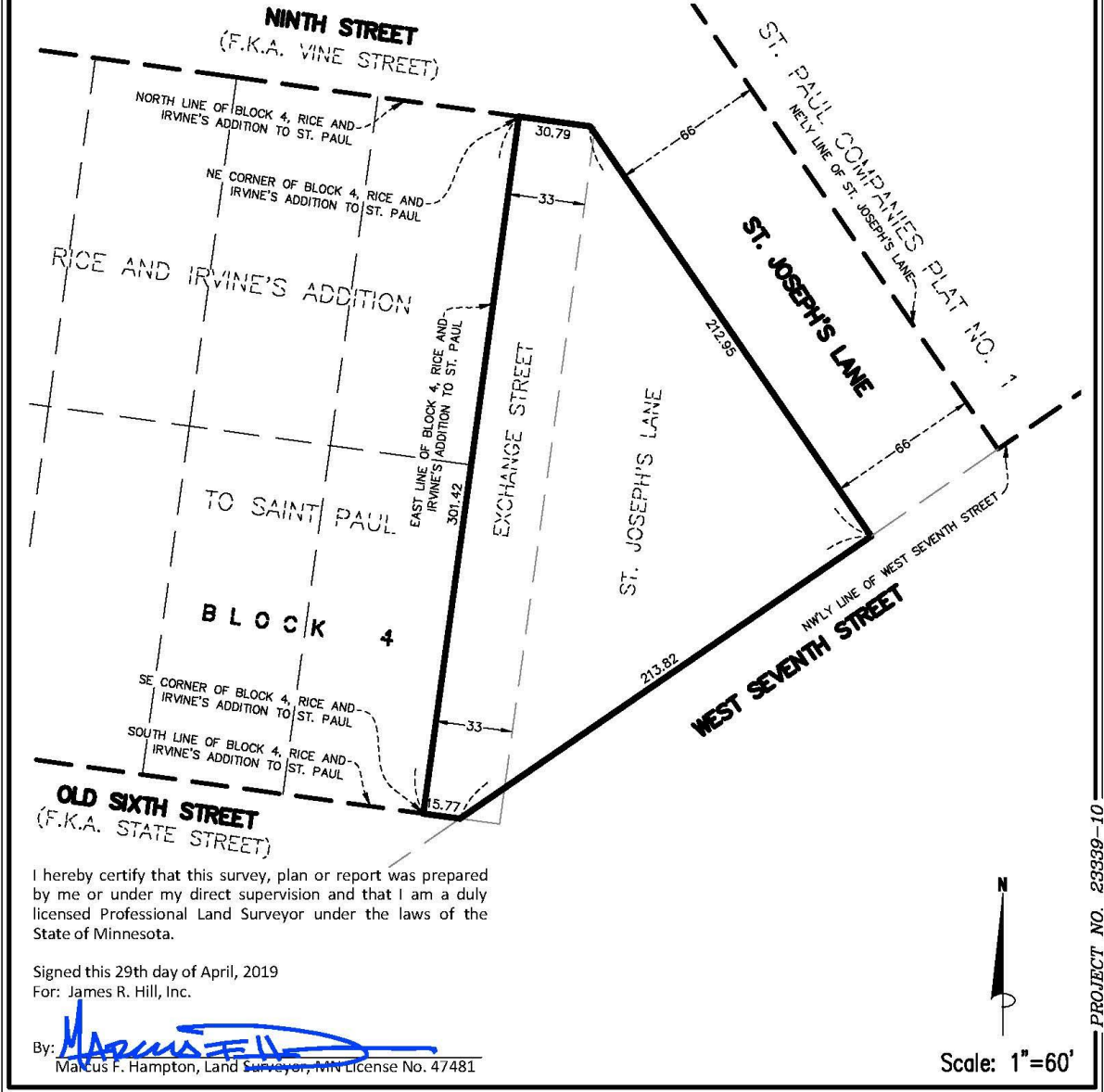
EXHIBIT B

LEGAL DESCRIPTION AND SURVEY OF CITY PARCEL

CITY TRIANGLE PARCEL

That part of the right of way of Exchange Street, as dedicated on RICE AND IRVINE'S ADDITION TO ST. PAUL, according to the recorded plat thereof, Ramsey County, Minnesota; and that part of the right of way of St. Joseph's Lane, as dedicated on ST. PAUL COMPANIES PLAT NO. 1, according to the recorded plat thereof, Ramsey County, Minnesota, described as follows:

Beginning at the southeast corner of Block 4, said RICE AND IRVINE'S ADDITION TO ST. PAUL; thence easterly, along the easterly extension of the south line of said Block 4, a distance of 15.77 feet to the intersection with the southwesterly extension of the northwesterly line of West Seventh Street, as dedicated on said plat of ST. PAUL COMPANIES PLAT NO. 1; thence northeasterly, along said southwesterly extension, a distance of 213.82 feet to the intersection with a line parallel with and 66.00 feet southwesterly of the northeasterly line of said St. Joseph's Lane; thence northwesterly, along said parallel line, a distance of 212.95 feet to the intersection with the easterly extension of the north line of said Block 4; thence westerly, along said easterly extension of the north line of Block 4, a distance of 30.79 feet to the northeast corner of said Block 4; thence southerly, along the east line of said Block 4, a distance of 301.42 feet to the point of beginning.



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 Professional Land Surveyor under the laws of the State of Minnesota.

Signed this 29th day of April, 2019
For: James R. Hill, Inc.

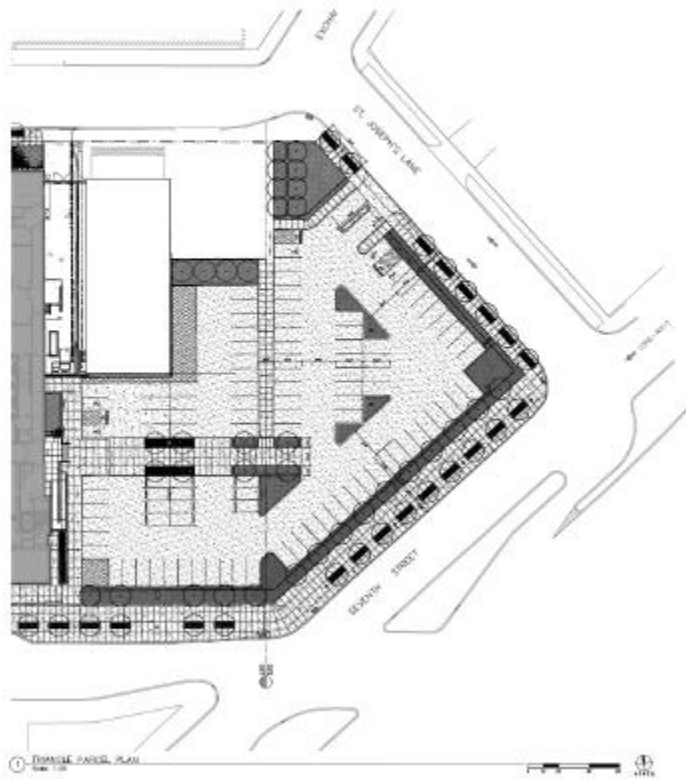
By: *Marcus F. Hampton*
Marcus F. Hampton, Land Surveyor, MN License No. 47481



Scale: 1"=60'

PROJECT NO. 23339-10

EXHIBIT C
DEVELOPMENT PLAN



GENERAL NOTES
LANDSCAPE PLAN - TRINIDAD PARK DURKOTH DAY PLACE MAY 1988 (REV. 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025)
L203

EXHIBIT D

INSURANCE REQUIREMENTS

1.	Workers Compensation Insurance coverage in accordance with statutory requirements, if applicable
2.	Commercial General Liability Insurance (and General Contractor and Subcontractors shall provide equivalent coverage) per the following: \$1,000,000.00 Each Occurrence (Combined Single Limit); \$2,000,00.00 General Occurrence (subject to per project general aggregate provision); and \$1,000,000.00 Personal Injury Liability to include coverage for employee-related claims.
3.	Umbrella Liability: \$5,000,000.00
4.	If there are insurable improvements on the City Parcel an all-risk hazard insurance policy reflecting coverage of 100% of the replacement cost of the improvements on the City Parcel.

EXHIBIT E
FORM OF CHURCH USE AGREEMENT
JOINT PARKING USE AGREEMENT

This Joint Parking Use Agreement (the “**Agreement**”) is entered into this _____ day of _____, 2019 between **CATHOLIC CHARITIES OF THE ARCHDIOCESE OF SAINT PAUL AND MINNESOTA**, a Minnesota non-profit corporation (“**Catholic Charities**”), and **THE CHURCH OF THE ASSUMPTION**, a Minnesota parish corporation organized under Minnesota Statutes § 315.15 (the “**Church**”). (Catholic Charities and the Church are also referred to as “party” or “parties” herein.)

RECITALS

L. Catholic Charities is the developer of Higher Ground Saint Paul and 193 units of affordable permanent housing in Saint Paul, Minnesota (the “**Higher Ground Parcel**”), as depicted on the site plan attached hereto as Exhibit A (the “**Site Plan**”).

M. Catholic Charities is the developer of the Opportunity Center and 177 units of affordable permanent housing units as depicted on the Site Plan (the “**Opportunity Center Parcel**”).

N. The City controls certain right-of-way which is bordered by North Exchange Street, St. Joseph’s Lane and 7th Street West legally described on Exhibit B attached hereto and incorporated herein (the “**City Parcel**”) as also depicted on the Site Plan.

O. The Church owns the church building and related improvements located at 51 West Seventh (the “**Church Parcel**”).

P. The City, Catholic Charities and the Church entered into that certain Parking Lot License Agreement dated [_____, 2019] (the “**Parking Agreement**”), pursuant to which Catholic Charities, the Church and City have agreed that Catholic Charities will construct certain parking facilities on the City Parcel as more particularly described in the Parking Agreement (the “**Parking Facilities**”), to be operated by Catholic Charities in accordance with the terms and conditions set forth in the Parking Agreement.

Q. The City has authorized this Use Agreement with the Church.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Catholic Charities and Church hereby agree as follows:

1. Term of Agreement. This Agreement shall commence upon the Commencement Date as defined herein and shall continue for a period of ten (10) years (the “**Initial Term**”). The “**Commencement Date**” shall occur on the last of the following dates: (a) the date the construction of the Parking Facilities are completed and open for operations as a parking facility, or (b) the date that the Church delivers the certificate of insurance as required pursuant

to Section 9 below. This Agreement shall automatically be extended for successive five-year periods following the Initial Term, unless the Church gives written notice to Catholic Charities at least sixty (60) days prior to the applicable extension term that the Church does not desire to have the Agreement extend beyond the then applicable term of this Agreement. Notwithstanding the foregoing, if the Parking Agreement terminates for any reason, this Agreement shall terminate effective as of the date of termination of the Parking Agreement.

2. Parking Spaces. Subject to the terms, covenants and conditions contained herein, the Church shall have the right to use fifty (50) parking spaces in the Parking Facilities as shown on Exhibit A attached hereto and incorporated herein (the “**Parking Spaces**”) during the Permitted Parking Hours, as defined below. Catholic Charities shall have priority over the Parking Facilities at times other than the Permitted Parking Hours.
3. Use of Parking Spaces. The Premises may be used by Church its employees and invitees during Permitted Parking Hours only, solely for the parking of automobiles for activities associated with the Church, for vehicular and pedestrian ingress and egress to the parking spaces, and for no other purpose. The term “**Permitted Parking Hours**” means the hours of 4:00 p.m. to 6:00 p.m. on Saturday and 7:00 a.m. to 2:00 p.m. on Sunday. The Church’s use of the Parking Spaces shall be subject to reasonable rules and regulations mutually agreed upon by Catholic Charities and the Church. The Church shall have priority over other uses, including rental for sports and entertainment events, during Permitted Parking Hours.
4. Alterations. The Church shall not alter, improve, or in any way change or modify the Parking Facilities or Parking Spaces, except the Church shall have the right to install signage identifying the Parking Lot as available to its visitors and guests for parking, provided that Catholic Charities shall have the right to approve all signage, which approval shall not be unreasonably withheld. All signage shall meet all City requirements. The Church and Catholic Charities shall work together to create joint signage to the extent reasonably feasible. Any damage done to the Parking by the Church, or its employees or guests, shall be promptly repaired at the Church’s sole cost and expense to its original condition or, if necessary, replaced. Any damage done to the Parking Lot by Catholic Charities, its employees or guests, shall be promptly repaired at Catholic Charities sole cost and expense to its original condition, or, if necessary, replaced.
5. Hazardous Substance. Each party to this Agreement agrees that it shall not place, generate, use or dispose of any Hazardous Substances (defined below) at or upon the Parking Facilities and shall undertake reasonable precautions and actions to insure that no one using the Premises within its authority places, generates, uses or disposes of any Hazardous Substances at or upon the Parking Facilities. Each party to this Agreement will indemnify and hold the other party and the City harmless from and against any costs (including reasonable legal costs) arising in connection with the existence of Hazardous Substances that arise out of such party’s use of the Premises and Parking Lot (whether or not such materials or substances were Hazardous Substances at the time they were brought upon the Premises). The term “**Hazardous Substances**” includes any substance considered hazardous or toxic under any law or regulation now or hereafter brought into force by any governmental authority having

jurisdiction over the Parking Facilities. This indemnity shall survive the expiration or other termination of this Agreement.

6. Indemnity. Each party agrees to indemnify the other party and the City, and hold the other party and the City harmless from and against any losses, damages or claims, including attorney fees and costs incurred by the other party or City arising out of the negligence or willful misconduct of Catholic Charities or the Church, as the case may be, or by the negligence or willful misconduct of their respective customers, invitees, employees, contractors or agents. The terms of this Section shall survive the termination of this Agreement.

7. Insurance. At all times during the term of this Agreement, each party shall maintain at its own cost and expense, a policy of commercial general liability insurance, including contractual liability covering its obligations under this Agreement, with a minimum coverage of \$1,000,000 per occurrence and not less than \$2,000,000 annual aggregate as to the Premises. Each policy shall name the other party and City as an additional insured. Such insurance shall be purchased from an insurance company licensed to do business in Minnesota with an A.M. Best rating of not less than A-VIII and shall be placed with such company and upon such forms as the Church and Catholic Charities shall reasonably approve. Each party shall promptly provide the other party with a certificate of insurance as evidence of the above insurance, which shall provide that the insurer will give the other party at least thirty (30) days written notice prior to any cancellation, non-renewal or material change in coverage. The policies required in this section shall be endorsed to indicate that the insurer cannot cancel or reduce the insurance coverage without first giving Catholic Charities or the Church, as the case may be, thirty (30) days' written notice. In the event of the failure of either party, either to effect such insurance in the names called for or to pay the premiums therefor or to deliver such policies or certificates thereof to the other party, then the other party shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums therefor.

8. Notices. Any notice or demand permitted or required hereunder shall be deemed given or made if it is deposited in the United States mails certified, return receipt requested, postage prepaid, addressed as follows or sent via facsimile followed by mailed notice:

To Catholic Charities:	Catholic Charities of the Archdiocese of Saint Paul and Minneapolis 1200 Second Avenue South Minneapolis, MN 55403 Attn: Richard Johnson
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If to Church:	Church of the Assumption 51 7 th West Saint Paul, MN 55102 Attn: Business Administrator
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9. Miscellaneous.

- (a) Generally. Time is of the essence with respect to the payment and performance of the obligations set forth in this Agreement. No third-party beneficiary rights are created by this Agreement.
- (b) Entire Agreement. This Agreement contains the entire agreement between the parties and may be amended only by an instrument in writing signed by both parties. All approvals required hereunder shall also be in writing.
- (c) Counterparts. This Agreement may be executed in any number of counterparts with the same force and effect as if all signatures were appended to one document, each of which shall be deemed an original.

[Remainder of page intentionally left blank. Signature page follows.]

Catholic Charities and Church have executed this Agreement as of the date identified above.

CATHOLIC CHARITIES OF THE ARCHDIOCESE OF
SAINT PAUL AND MINNEAPOLIS

By: _____
Richard R. Johnson
Vice President and Chief Financial Officer

CHURCH OF THE ASSUMPTION

By: _____
Its: _____

Exhibit F

Statement of Sources and Uses Catholic Charities Construction of Triangle Parking Lot

Sources of Funds:

Project Contingency (Funded by BMO Construction Loan)	\$ 945,000.00
Catholic Charities Cash (wired to title)	329,786.00
Total Sources	<u><u>\$ 1,274,786.00</u></u>

Uses of Funds:

Signage	\$ 2,745.00
Electrical	83,186.00
Earthwork	511,267.00
Asphalt Paving	61,500.00
Walks	98,807.00
Wire Fencing and Stainless Gates	36,636.00
landscaping	357,615.00
(2) Bollards at Entry Gate Pedestal	500.00
Plant ROW Trees	6,640.00
Overhead and Profit	115,890.00
Total Uses of Funds	<u><u>\$ 1,274,786.00</u></u>

EXHIBIT G

FRONTAGE AND ACREAGE MAP

