

COUNCIL MEMO

Agenda Item # 9.2

Meeting Date: July 15, 2019
Agenda Section: Ordinances & Resolutions
Item Description: ORD/Approving Lease to Gramercy Development Companies of Classroom "D" at Green Haven Golf Course & Event Center (2nd Reading)
Submitted By: Larry Norland

BACKGROUND INFORMATION This is the second reading of the lease.

1. Lease Classroom "D" to Gramercy Development Companies to serve as their sales office for the 641 Jacob Lane Development.
2. Rent payments of \$1,000 per month will start upon commencement of the lease and the lease will be for 1 year with a month-to-month option to follow.
3. This is the room that the Rotary uses for their weekly meetings and we have a negotiated agreement to accommodate their meeting while the room is used as a sales office.

FINANCIAL IMPACT

None

REQUESTED COUNCIL ACTION

Motion to approve the ordinance authorizing approving lease to Gramercy Development Companies of Classroom "D" at Green Haven Golf Course & Event Center.

REQUIRED VOTE

A 4/5th's vote of the City Council is required.



2015 First Avenue, Anoka MN 55303
Phone: (763) 576-2700 Website: www.ci.anoka.mn.us

**CITY OF ANOKA, MINNESOTA
ORDINANCE**

ORD-2019-XXXX

**AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN GRAMERCY
DEVELOPMENT COMPANIES AND THE CITY OF ANOKA RELATING TO
CLASSROOM “D” AND ITS USE FOR THEIR SALES OFFICE**

THE COUNCIL OF THE CITY OF ANOKA ORDAINS:

- Section 1. Whereas, the City of Anoka owns real property; Green haven Golf Course & Event Center, located at 2800 Greenhaven Road: Whereas, the council determined in accordance with Section 13.05 of the City Charter that it would be in the best interest of the City of Anoka to enter into a lease with Gramercy Development Companies for office space.
- Section 2. That said lease agreement is effective July 15, 2019 and will expire on July 15, 2020 for a total of 12 months.
- Section 3. This Ordinance shall be in full force and effective upon passage and seven (7) days after publication.

ATTEST:

Phil Rice, Mayor

Introduced: _____
Adopted: _____
Published: _____
Effective: _____

Amy Oehlers, City Clerk

	Aye	Nay	Abstain	Absent
Rice	_____	_____	_____	_____
Barnett	_____	_____	_____	_____
Freeburg	_____	_____	_____	_____
Wesp	_____	_____	_____	_____
Skogquist	_____	_____	_____	_____

COMMERCIAL LEASE

THIS LEASE made and entered into as of the ___ day of _____, 2019, by and between the City of Anoka, a municipal corporation (hereinafter referred to as "Landlord"), and Gramercy Development, LLC, a Minnesota limited liability company (hereinafter, "Tenant").

WITNESSETH:

1. LEASED PREMISES. In consideration of the rents, covenants and agreements herein contained, the Landlord hereby leases to Tenant, and Tenant leases from Landlord those certain premises containing approximately 575 rentable square feet, identified on Exhibit A, attached, (hereinafter the "Leased Premises") in the building situated at 2800 Greenhaven Road Anoka, Minnesota 55303 (hereinafter the "Building"). The land on which the Building and the Common Areas are located is hereinafter referred to as the "Land".

2. TERM. The Term of this Lease shall be twelve (12) months, commencing upon July 1, 2019, (hereafter the "Commencement Date") and expiring on June 30, 2020 (hereafter the "Expiration Date"), unless earlier terminated as herein provided. Upon the expiration of the Term, the Lease may continue on a month to month basis, terminable by either party upon 90 days written notice to the other.

3. RENT. Landlord reserves and Tenant covenants to pay to Landlord, without demand, at its offices inside the Building, or at such other place as Landlord may from time to time designate in writing, on the days and in the manner herein prescribed for the payment thereof, rent for the Leased Premises as follows:

(a) One Thousand and 00/100 Dollars, (\$1,000.00) per month, due on the first day of each and every calendar month during the Term of this Lease (hereafter the "Rent"). Rent payable for any partial calendar month in the Term shall be pro-rated on the basis of the actual number of days within the Term occurring within such calendar month. Although Landlord shall cover common area costs and utilities, Tenant shall be responsible for any extraordinary costs attributable to its tenancy, as determined by Landlord in its reasonable discretion, including, but not limited to, any extraordinary garbage cost, extraordinary utility costs, etc.

(b) Late Payment Charge. In the event any installment of Rent is not paid on or before the fifth day after which the same became due, then Landlord may charge Tenant a late charge equal to five percent (5%) of the unpaid amount thereof for each month or partial month that the same remains unpaid in order to defray the cost and expenses incurred by Landlord incident to the late payment; provided, however, nothing herein contained shall be deemed to constitute an excuse for untimely payment of Rent, nor be deemed a waiver of any rights the Landlord may have under this Lease by reason of non-payment of rent.

4. TENANT'S PROPORTIONATE SHARE. Not Applicable.

5. BUSINESS USE. The Leased Premises shall be used and occupied by Tenant for office / sales office use and other uses incidental to such a facility.

6. COMMON AREA.

(a) Rules and Regulations. The term “Common Area” means the entire areas designed for common use or benefit within the Building and on the Land, including but not limited to, parking lots, sidewalks, areaways, roads, walks, curbs, corridors, malls, together with public facilities such as washrooms, drinking fountains, public stairs and loading docks, with facilities appurtenant to each. Said Common Area may be expanded, contracted or changed by Landlord from time to time as deemed desirable. The public portions of the Common Area are hereby made available pursuant to a revocable license to Tenant and its employees, agents, customers and invitees for reasonable use in common with other tenants, their employees, agents, customers, invitees and Landlord for the purposes for which constructed subject to reasonable rules and regulations to be promulgated by Landlord.

(b) Event Space. Tenant may utilize the second-floor event space/meeting room and A/V system to conduct one member meeting per month at no additional charge for the space, provided the space is not already booked. Any food or beverages utilized at the member meetings shall be purchased from the Tavern at Greenhaven. Tenant shall provide Landlord or Landlord’s designated agent at least three weeks’ advance notice of the dates and times of each month’s member meeting. Tenant shall not hold a member meeting at any date or time reserved by Landlord for other events.

7. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE. Tenant agrees that this Lease is and shall be subordinate to any mortgages that currently are or may hereafter be placed upon said Building or the Land and to any and all advances to be made thereunder, and to the interest thereon and all renewals, replacements and extensions thereof. Tenant shall execute and deliver whatever instruments as may be required for the above purposes within ten (10) days after written request by Landlord, and failing to do so within said ten (10) days, Tenant does hereby make, constitute and irrevocably appoint Landlord as his attorney-in-fact and in his name, place and stead so to do.

8. CARE OF THE PREMISES. Tenant acknowledges that the Leased Premises are leased “AS IS” without any representations or warranties whatsoever by Landlord. Landlord shall remain responsible for all repairs required to the Premises and the Leased Space except those repairs necessitated by the willful or negligent conduct or actions of Tenant or Tenant’s employees, agents, customers or invitees, which such costs shall be the responsibility of Tenant. Landlord shall maintain in good condition, sidewalks, parking lot, lawns and shrubbery, parking lot lighting and outside building lighting. Landlord shall also keep all sidewalks and parking lot free from snow and ice, to the best of their ability. Sidewalks, parking lot, stairways, entrances, lawn and any other common areas shall not be obstructed by Tenant or used for any purpose other than ingress and egress to and from the premises. Tenant shall not conduct business so as to constitute a nuisance to other tenants or occupants; overload any floor facility; make any structural alterations except as provided in this Lease, erect any antennas on any building roofs, or discharge or deposit any substance in plumbing facilities or use the same for any purpose other than that for which constructed.

9. SIGNS: DISPLAY WINDOWS. Tenant may erect temporary signage in approved Common Area spaces, as well as on the entrances to the building, including lettering and other advertising media. No sign or advertising medium shall be used so as to be a nuisance or menace to Landlord or other tenants. The cost of installing, maintaining, changing and removing all signs shall be borne by Tenant. Tenant's rights in respect of signs shall not be transferable.

10. ALTERATIONS. INSTALLATIONS. FIXTURES. Tenant may improve the Leased Space with new paint, carpeting, window fixtures, lighting, and ceiling tiles (hereafter, the "Alterations") within the Leased Premises. All Alterations shall be paid for by Tenant and shall be constructed with good workmanship and in first class condition. Tenant shall cause the Alterations to be undertaken with all due diligence and care and on such days and during such hours as do not cause unreasonable noise to emanate from the Leased Premises into premises leased by other tenants in the Building. All Alterations must be pre-approved by Landlord.

11. INSURANCE.

(a) Tenant's Insurance. Tenant agrees to maintain in full force, during the term hereof, the following insurance:

- a.i) fire and extended coverage insurance, including protection against vandalism and malicious mischief, on the leasehold improvements, Alterations, merchandise, equipment, and trade fixtures located in the Leased Premises in an amount not less than one hundred percent (100%) of the actual replacement value thereof;
- a.ii) comprehensive general public liability insurance under which the insurer agrees to indemnify and hold Tenant and Landlord, Landlord's mortgagee, and those in privity of estate with Landlord harmless from and against all cost, expense and/or liability arising out of or based upon any and all personal injury sustained and property damage occurring as an alleged consequence of any act or omission on the part of Tenant, its officers, employees, agents, servants, licensees, contractors or invitees. The minimum limits of liability of such insurance shall be One Million and 00/100 Dollars (\$1,000,000.00) for injury to any one person, One Million and 00/100 Dollars (\$1,000,000.00) for injury arising from one accident and One Million 00/100 Dollars (\$1,000,000.00) property damage;
- a.iii) Workmen's Compensation Insurance and any other kind of insurance which may be required by any statute, ordinance, or regulation of any governmental body in connection with the operation and use of the Leased Premises by Tenant; and

12. All such insurance shall be with a responsible insurance company authorized to do business in the state where the Building is located, and acceptable to Landlord. Landlord, its officers, directors, agents and mortgagees, shall be named an additional insureds on all such policies. Copies of all Tenant's insurance policies or certificates evidencing such insurance shall be delivered to Landlord by Tenant prior to the Commencement Date and Tenant shall deliver to

Landlord, from time to time, upon request, evidence that such insurance policies are in full force and effect and that the premiums therefor have been paid.

13. PARKING. Tenant and Tenant's guests may utilize the parking stalls located in the golf course parking lot.

14. COVENANTS TO HOLD HARMLESS. Except to the extent caused by the gross negligence of Landlord, its agents, or employees, Tenant shall hold harmless, defend, and indemnify Landlord from any liability for damages to any person or property in or upon the Leased Premises and the sidewalks adjoining same and the loading area allocated to the use of Tenant, including the person and property of Tenant and its employees and all persons in the Building at its or their invitation. All property kept, stored or maintained in the Leased Premises shall be so kept, stored or maintained at the sole risk of Tenant. Tenant agrees to pay all sums of money in respect of any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to Tenant in or about the Leased Premises which may be secured by any mechanic's, materialmen's or other lien against the Leased Premises or the Landlord's interest therein and will cause each such lien to be immediately discharged upon receipt of notice of filing thereof, provided that upon posting of a bond therefor Tenant may contest such lien, but if such lien is reduced to final judgment and if such judgment or process thereon is not stayed, or if stayed and said stay expires, than and in such event Tenant shall forthwith pay and discharge said judgment. Landlord shall have the right to post and maintain on the Leased Premises, notice of non-responsibility, under the laws of the State of Minnesota.

15. ASSIGNMENT OR SUBLETTING.

(a) Tenant agrees not to sell, assign, mortgage, pledge, or in any manner transfer this lease or any estate or interest thereunder and not to sublet the Leased Premises or any part or parts thereof and not to permit any licensee or concessionaire therein without the previous written consent of Landlord in each instance (hereafter referred to collectively as a "Transfer"). Consent by Landlord to one Transfer hereunder shall not be a waiver of Landlord's rights under this Section as to any subsequent Transfer. Landlord reserves the right to refuse consent to any Transfer for any reason or for no reason. The assignment of the Lease to an entity owned by at least 51% of Tenant shall not constitute a Transfer for purposes of this paragraph.

16. ACCESS TO PREMISES. Landlord reserves the right to enter upon the Leased Premises at reasonable hours to inspect the same, to make repairs, additions or alterations to the Leased Premises or other property, to exhibit the Leased Premises to prospective tenants, purchasers or others, and to enter the Leased Premises at any time for any purpose in the event of an emergency. Any such entry by Landlord shall not be deemed to be a constructive eviction of Tenant or a termination of this Lease, nor shall Tenant be entitled to any abatement of its rent pursuant thereto.

17. UTILITY SERVICE.

(a) Gas, Water and Electricity. Landlord agrees to cause mains, conduits, and other facilities to be provided and maintained to supply gas, water, and electricity to the point where

they enter the Leased Premises or to nearby places. Landlord shall remain responsible for the cost of all gas, water and electricity used in the Leased Premises.

(b) Interruption of Service. Landlord shall not be liable in damages or otherwise if the furnishing by Landlord or by any other supplier of any utility service or other service to the Leased Premises shall be interrupted or impaired by fire, accident, riot, strike, act of God, the making of necessary repairs or improvements or by any other causes or if service may be curtailed or interrupted by energy regulations issued by any lawful authority.

18. EMINENT DOMAIN.

(a) Entire Premises. If the Leased Premises, or such portion thereof as to render the balance unsuitable for the purposes of Tenant, is taken by condemnation or the right of eminent domain or by private sale in lieu thereof, either party shall be entitled to terminate this Lease upon written notice to the other, provided that such notice is given within thirty (30) days after Tenant has been deprived of possession by such taking or sale. If any part of the Leased Premises is so taken, condemned, or sold, and, if this Lease is not terminated in accordance with the provisions hereof, Landlord covenants and agrees promptly after such taking, condemnation, or sale to expend so much of the net amount which may be awarded or delivered to it which is attributable to the Leased Premises in such condemnation or sale proceedings as is necessary to restore the Leased Premises to an architectural unit as nearly like their condition prior to such taking or sale as is practical.

19. DAMAGE OR DESTRUCTION.

(a) In the event that the Leased Premises shall be damaged or destroyed by fire or other casualty, Landlord shall, unless it shall elect to cancel and terminate this Lease, as hereinafter provided, repair such damage and restore the Leased Premises, with all reasonable diligence, to substantially the condition existing immediately prior to the occurrence of such event, subject to the receipt of the insurance proceeds payable therefor. During any period in which, by reason of such damage or destruction, the Leased Premises or any portion thereof is rendered untenable and Tenant thereby is required to discontinue its business operations therein, then the Rent provided to be paid by Tenant hereunder shall be abated commencing with the date of such destruction or damage and continuing until the completion of the repair and restoration work for which Landlord is obligated hereunder. All insurance proceeds from Tenant's insurance policies which are payable as a result of damage to the leasehold improvements or Alterations in the Leased Premises shall be paid to Landlord. In no event shall Landlord have any obligation to expend an amount in excess of the insurance proceeds actually received by Landlord for the repair and restoration of any damage or destruction to the Building or the Leased Premises.

(b) If the Leased Premises be, at any time, destroyed or substantially damaged by a casualty which is not an "insured casualty", or, if the unexpired term of this Lease shall be one (1) year or less at the date of such destruction or substantial damage, Landlord shall have the right to cancel and terminate this Lease as of the date of such destruction or substantial damage by giving Tenant notice of its election to do so within sixty (60) days after the happening thereof.

(c) If fifty percent (50%) or more of the Floor Area of the Building shall be rendered partially or wholly untenable by fire or other casualty, notwithstanding that the Leased Premises may not have been rendered partially or wholly untenable, Landlord may terminate this Lease upon and by giving written notice of termination to Tenant within sixty (60) days following the date of such fire or other occurrence.

20. SURRENDER. On the last day of the Lease Term or on the sooner termination thereof, Tenant shall peaceably surrender to Landlord the Leased Premises in good order, condition and repair, broom-clean, fire and other unavoidable casualty and reasonable wear and tear excepted. On or before the last day of the Term or the sooner termination thereof, Tenant shall at its expense, remove its trade fixtures, signs, and carpeting from the Leased Premises and any property not removed shall be deemed abandoned. Any damage caused by Tenant in the removal of such items shall be repaired by and at Tenant's expense. All Alterations, additions, improvements and fixtures (other than Tenant's trade fixtures, signs and carpeting) which shall have been made or installed by either Landlord or Tenant upon the Leased Premises and all hard surface bonded or adhesively affixed flooring and all lighting fixtures shall remain upon and be surrendered with the Leased Premises as a part thereof, without disturbance, molestation or injury, and without charge, at the expiration or termination of this Lease. If the Leased Premises be not surrendered at the end of the Term or the sooner termination thereof, Tenant shall indemnify Landlord against loss or liability, including consequential damages, resulting from delay by Tenant in so surrendering the Leased Premises, including without limitation, claims made by any succeeding tenant founded on such delay. Tenant shall promptly surrender all keys for the Leased Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of the combination on any locks and safes on the Leased Premises.

21. SHORT FORM OR MEMORANDUM OF LEASE. Tenant agrees that it will, upon Landlord's request, promptly execute duplicate originals of an instrument, in recordable form, which will constitute a short form of this Lease, setting forth a description of the Leased Premises or Building, the Term of this Lease or any other provisions thereof, except for Rent, as Landlord may request.

22. PERMITS & ZONING. Tenant shall obtain and maintain in force and effect all permits, licenses and similar authorizations to use the Leased Premises for the aforesaid purpose required by any governmental authority.

23. OFFSET STATEMENT. Within ten (10) days after request therefor by Landlord, Tenant agrees to deliver a certificate to Landlord, certifying (if such be the case) that this Lease is in full force and effect and that there are no defenses or offsets, or state those claimed by Tenant, together with such other items as any mortgagee may reasonably request.

24. DEFAULT OF TENANT.

(a) Default. Any one of the following events shall constitute an Event of Default:

a.i) any failure of Tenant to pay any Rent due hereunder within ten (10) days after the same shall be due, or

- a.ii) if Tenant shall cease operating its business in the Leased Premises, abandon the Leased Premises, or suffer this Lease to be taken under any writ of execution, or
- a.iii) if Tenant shall fail to provide the documentation referenced in Articles 7, 11, or 23 within the applicable periods set forth therein, or
- a.iv) if Tenant shall fail to vacate and surrender the Leased Premises upon the expiration of the Term, or
- a.v) any failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than thirty (30) days after written notice of such default shall have been given to Tenant.

(b) Termination/Repossession/Reletting. If an Event of Default shall have occurred and be continuing, Landlord may at its sole option by written notice to Tenant terminate this Lease. Neither the passage of time nor acceptance of late payments nor exercise by Landlord of any other remedy with regard to such Event of Default shall limit Landlord's rights under this Section 24.

If an Event of Default shall have occurred then Landlord shall have the statutory right to reentry and removal of persons and property from the Leased Premises, whether or not Landlord elects to terminate this Lease. Should Landlord elect to re-enter as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it shall terminate this Lease. Tenant shall pay to Landlord the Rent to be paid by Tenant up to the time of such termination.

In the event of a default by Tenant hereunder, Tenant's delivery of the keys to the Leased Premises to Landlord, and Landlord's acceptance thereof, shall constitute a termination of this Lease.

25. Omitted

26. HAZARDOUS WASTES AND MATERIALS. Tenant covenants that it shall not install, use, generate, store, release, or dispose of on or about the Premises any hazardous substances, toxic chemicals, pollutants or other materials regulated pursuant to the Federal Comprehensive Environmental Response Compensation and Liability ("CERCLA"), the Federal Resource Conservation and Recovery Act ("RCRA") or the Minnesota Environmental Response and Liability Act ("MERLA"), or any similar statute or regulation, including without limitation any materials containing asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, crude oil or natural gas (collectively, "Hazardous Substances"), without Landlord's prior written approval, which may be withheld in its sole discretion. Tenant further agrees to indemnify, defend, and hold Landlord harmless from and against any claim, damage, fine, or other expense (including court costs, attorneys' fees and other costs of defenses) arising out of the installation, use, generation, storage, release, or disposal of any Hazardous Substances in or about the Leased Premises by Tenant, its agents, employees, contractors, or invitees. The foregoing indemnification by Tenant shall survive the expiration or sooner termination of the Lease Term.

27. NOTICES. Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by registered or certified mail to Tenant at the address of the Leased Premises and to Landlord at the address then fixed for the payment of rent, and either party may by like written notice at any time designate a different address to which notices shall subsequently be sent. Notices shall be deemed delivered three days after postmark.

28. GENERAL. This Lease does not create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, the sole relationship between Landlord and Tenant being that of Landlord and Tenant. No waiver of any default of Tenant hereunder shall be implied from any omissions by Landlord to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent to or approval of Landlord to any action by Tenant shall not waive or render unnecessary Landlord's consent or approval of any subsequent similar act by Tenant. Each term and each provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition. No action required or permitted to be taken by or on behalf of Landlord under the terms or provisions of this Lease shall be deemed to constitute an eviction or disturbance of Tenant's possession of the Leased Premises. The submission of this Lease or a summary of some or all of its provisions for examination does not constitute a reservation of or option for the leased Premises and this Lease shall become effective as a lease only upon execution and delivery thereof by Landlord and by Tenant. The marginal or topical headings of the several articles, paragraphs and clauses are for convenience only and do not define, limit or construe the contents of such articles, paragraphs or clauses. All preliminary negotiations are merged into and incorporated in this Lease. The laws of the State of Minnesota shall govern the validity, performance and enforcement of this Lease. Landlord, in its sole discretion, may continue to develop the real property upon which the Leased Premises are situated, expand or renovate the buildings thereon which contain the Leased Premises, and, expand or renovate the parking area, ramps or facilities associated therewith.

29. NON-LIABILITY. Landlord shall not be responsible or liable to Tenant nor shall Tenant be liable to Landlord for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connected with the Leased Premises or any part of the Building of which the Leased Premises are a part or any persons transacting any business in the Building for any other purpose or for any loss or damage resulting to Tenant or its property from burst, stopped or leaking water, gas, sewer, sprinkler or steam pipes or plumbing fixtures or from any failure of or defect in any electric line, circuit or facility or by reason of anyone illegally entering or upon the Leased Premises.

30. QUIET ENJOYMENT. Landlord covenants and agrees with Tenant and upon Tenant paying the rent and performing all of the terms and conditions on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Leased Premises without disturbance from Landlord or any party claiming by, through, or under Landlord, subject, nevertheless, to the terms, provisions, and conditions of this Lease.

31. SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided in this Lease, the terms, covenants, provisions, and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

32. INVALIDITY OR UNENFORCEABILITY OF CLAUSE. The invalidity or unenforceability of any provisions of this Lease shall have no affect on the validity or enforceability of any other provision of this Lease.

33. LAW GOVERNING. This Lease shall be governed by the laws of the State of Minnesota.

34. ARTICLE CAPTIONS. Article captions are not a part hereof and in no way define or limit the provisions hereof.

35. RULES AND REGULATIONS. The Landlord may from time to time adopt and/or amend reasonable rules and regulations pertaining to the operation of the Building and Tenant shall abide by such rules and regulations.

36. NO ABATEMENT OR SETOFF. It is specifically understood and agreed that, except as expressly otherwise provided in this Lease, all obligations of Landlord and Tenant are independent of each other and that Tenant shall pay all Rent without any abatement, deduction or setoff whatsoever.

37. ENTIRE AGREEMENT. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.

38. TENANT STATUS. The persons executing this Lease on behalf of Tenant hereby covenant, represent, and warrant that Tenant is duly organized and is authorized to do business in the State of Minnesota, and that the person or persons executing this Lease on behalf of Tenant is/are officers of Tenant and that he or they as such officers are duly authorized to sign and execute this Lease.

39. LIMITATION OF LANDLORD'S LIABILITY. Anything contained in this Lease to the contrary notwithstanding, Tenant agrees that Tenant shall look solely to the estate and property of the Landlord in the Building containing the Leased Premises and the net rentals therefrom for the collection of any judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by Landlord, subject, however, to the prior rights of any ground or underlying lessor or the holder of any mortgage or deed of trust covering the Building, and no other assets of the Landlord shall be subject to levy, execution or other judicial process for the satisfaction of Tenant's claims.

IN WITNESS WHEREOF, the Landlord and the Tenant have thereunto set their hands the day and year first above written.

**LANDLORD:
THE CITY OF ANOKA, A MUNICIPAL
CORPORATION**

By: _____
Its: _____

**TENANT:
GRAMERCY DEVELOPMENT, LLC**

By _____
Mick L. Conlan
Its: President