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280366

CRU FILED # 22762
Taxes Paid and Transfer entered this
28th day of November, 2001
TEAN WEISSER
County Auditor/Treas.
By Ken
Deputy

RECORDS & CLERK
BENTON COUNTY, MN
CERTIFIED TO BE FILED
NOV 29 2 35 PM '01

MARKET COUNTY
BY CK

17-87512-00
17-07557-01
17-49587-01
17-19590-00
17-69600-00

CONTRACT FOR DEED

Dated: September 12, 2001

THIS CONTRACT FOR DEED is made on the above date by **East Central Energy**, a Minnesota Cooperative Corporation, ("Seller"), and the **Housing and Redevelopment Authority in and for the City of St. Cloud**, a Minnesota municipal corporation ("Purchaser").

This Contract is being executed in connection with and as part of a Loan Agreement ("Loan Agreement") of even date herewith by and among the Purchaser, St. Cloud Opportunities, Inc., a Minnesota corporation ("Opportunities"), Seller, and the City of St. Cloud, Minnesota, a Minnesota municipal corporation ("City").

Seller and Purchaser agree to the following terms:

1. **PROPERTY DESCRIPTION.** Seller hereby sells, and Purchaser hereby buys, real property in Benton County, Minnesota, described as follows:

See attached **Exhibit A**

together with all hereditaments and appurtenances belonging thereto (the "Property").

2. **TITLE.** Seller warrants that title to the Property is, on the date of this Contract, subject only to the following exceptions:

- (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
- (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (c) Building, zoning and subdivision laws and regulations;
- (d) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to paragraph 6 of this Contract; and

20⁰⁰ Renke Noonan
CK # 39876

- (e) The following liens or encumbrances (the "Underlying Contracts"):
- (i) A Contract for Deed dated April 6, 2001, between Cecelia Maria Beckner, a single person, as seller, and East Central Energy, a Minnesota Cooperative Corporation, as purchaser, which was recorded April 11, 2001, as Document Number 273215.
 - (ii) A Contract for Deed dated April 6, 2001, between Henkemeyer Properties, a Minnesota Partnership, as seller, and East Central Energy, a Minnesota Cooperative Corporation, as purchaser, which was recorded April 11, 2001, as Document Number 273214.
 - (iii) That certain Highway Easement granted to the County of Benton dated April 20, 1993, recorded May 18, 1993, as Document No. 214818.
 - (iv) Utility Easement reserved to East Central Energy over, under and across the West 55 feet of the North one-half of Northwest Quarter of Section 33, Township 36, Range 30 and over the South 60 feet of the Northeast Quarter, except the West 250 feet thereof, of Section 32, Township 36, Range 30.
 - (v) A Highway Easement in favor of the County of Benton over the South 66 feet of the Northeast Quarter, except the West 250 feet thereof, dated November 12, 1997, and recorded December 19, 1997, as Document Number 246193.
 - (vi) A Highway Easement in favor of the County of Benton over the West 22 feet of the East 55 feet of the East Half of the Northeast Quarter dated May 3, 1993, and recorded June 28, 1993, as Document Number 215871.

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchaser's prompt and full performance of this Contract, Seller shall:

- (a) Execute, acknowledge and deliver to Purchaser a Warranty Deed, in recordable form, conveying marketable title to the Property to Purchaser, subject only to the following exceptions:
 - (i) Those exceptions referred to in paragraphs 2(a), (b), (c) and (d) of this Contract;
 - (ii) Liens, encumbrances, adverse claims or other matters which Purchaser has created, suffered or permitted to accrue after the date of this Contract; and

- (iii) The following liens or encumbrances: Those exceptions referred to in Paragraphs 2(e) iii through vi.
- (b) Deliver to Purchaser the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.
4. **PURCHASE PRICE.** Purchaser shall pay to Seller, the sum of Two Million Three Hundred Ninety-six Thousand, Five Hundred Sixty-three and 80/100 Dollars (\$2,396,563.80) as and for the purchase price for the Property, payable as follows:
- (a) Purchaser shall have no liability for payment of the amounts due hereunder, other than to use the proceeds which Purchaser derives from the resale of lots which Purchaser intends to sell after subdividing the Property. This is a "Nonrecourse Contract" and the Purchaser's only payment obligation is to use proceeds from the sale of such lots as further described below.
- (b) Purchaser shall have the right and is undertaking to subdivide the Property into multiple lots to be sold to industrial developers. Seller will cooperate with the subdivision by signing the plat. Upon the sale of lots, the Seller will deliver to Purchaser, or Purchaser's assigns, Warranty Deeds to any such lots provided Purchaser pays to Seller a lot release fee which shall be the greater of:
- (i) The lot release fee required by the Underlying Contracts.
- (ii) The amount which Seller is entitled to pursuant to Paragraph 9 of the Loan Agreement.
- (c) This Contract shall bear interest on the unpaid principal amount at the same amount as Seller is paying on the Underlying Contracts.
5. **PREPAYMENT.** Purchaser shall have the right to fully or partially prepay this Contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this Contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity.
6. **REAL ESTATE TAXES AND ASSESSMENTS.** Purchaser shall pay real estate taxes, if any, due and payable in the year following closing and thereafter and any unpaid special assessments payable therewith and thereafter, the payment of which is not otherwise provided for herein.

Real estate taxes due and payable in and for the year in which this contract is dated shall be paid by Seller.

Seller shall pay all installments of special assessments certified for payment with the real estate taxes due and payable as of the date hereof.

Seller shall pay all other special assessments levied as of the date of this Contract. Seller may pay such assessments in full or in installments as the same become due and payable.

Seller shall pay special assessments pending as of the date of this Contract for improvements that have been ordered by the City Council or other governmental assessing authorities. Seller may pay such assessments in full when they are levied or in installments as the same become due and payable.

Seller shall pay any deferred or delinquent real estate taxes or special assessments, the payment of which is required as a result of the closing of this sale.

7. **PROPERTY INSURANCE.** Intentionally Omitted.
8. **DAMAGE TO THE PROPERTY.** Intentionally Omitted.
9. **INJURY OR DAMAGE OCCURRING ON THE PROPERTY.**
 - (a) **LIABILITY.** Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this Contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries. However, Purchaser shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.
 - (b) **LIABILITY INSURANCE.** Purchaser shall, at Purchaser's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property.
10. **INSURANCE, GENERALLY.** Intentionally Omitted.
11. **CONDEMNATION.** If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchaser under this Contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this Contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this Contract or

change the amount of such installments. The balance, if any, shall be the property of Purchaser.

12. **WASTE, REPAIR AND LIENS.** Intentionally Omitted.
13. **DEED TAX.** Seller shall, upon Purchaser's full performance of this Contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchaser.
14. **ASSIGNMENT RESTRICTION.** Neither party may sell, assign or otherwise transfer its interest in this Contract, or the party, without the written consent of the other which will not be unreasonably withheld.
15. **PROTECTION OF INTERESTS.** If Purchaser fails to pay any sum of money required under the terms of this Contract or fails to perform any of Purchaser's obligations as set forth in this Contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this Contract, as an additional amount due Seller under this Contract.

If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchaser, and provided Purchaser is not in default under this Contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchaser may, at Purchaser's option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this Contract.

Pursuant to the Loan Agreement, Opportunities and the City have advanced funds to Purchaser, and will advance additional funds to Purchaser. Purchaser intends such advances be repaid from and secured by proceeds from the sale of land the subject of this Contract. As such, Opportunities and the City are to be deemed "assigns" as such term is used in Minnesota Statutes § 559.21. Purchaser shall immediately provide written notice of and copies to Opportunities and the City of any Notices of Default received by Purchaser from either Seller or Seller's Vendors of the real property herein concerned.

16. **DEFAULT.** The time of performance by Purchaser of the terms of this Contract is an essential part of this Contract. Should Purchaser fail to timely perform any of the terms of this Contract, Seller may, at Seller's option, elect to declare this Contract cancelled and terminated by notice to Purchaser in accordance with applicable law. All right, title and interest acquired under this Contract by Purchaser shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchaser pursuant to this Contract shall belong to Seller as liquidated damages for breach of this Contract. Neither the extension of the time for payment of any sum of money to be paid hereunder

nor any waiver by Seller of Seller's rights to declare this Contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this Contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchaser shall, upon demand, surrender possession of the Property to Seller, but Purchaser shall be entitled to possession of the Property until the expiration of such period.

Pursuant to the provisions of the Loan Agreement, the City of St. Cloud and St. Cloud Opportunities have the right to cure defaults by the Purchaser under this Contract. Seller hereby acknowledges that right; and as such agrees that in the event of defaults by Purchaser, to send by certified mail a copy of any notice of default to the City of St. Cloud (attention City Administrator) and St. Cloud Opportunities (attention President); and both entities shall have the right to cure any such defaults by Purchaser; and shall have the further right to record and foreclose a lien, in the same manner as a judgement lien, against Purchaser's interest in the Property in the amount of any funds which were advanced to so cure.

16A. NON-RECOURSE. In the event that Purchaser defaults in Purchaser's performance of this Contract, Seller's sole remedy shall be to cancel this Contract in accordance with Minnesota Statute Section 559.21, as the same may from time to time be amended. Seller specifically waives any right Seller may have to commence an action for the specific performance of this Contract or any right Seller may have to seek an award of damages against Purchaser.

16B. SELLER'S ADDITIONAL RIGHT TO TERMINATE. In the event that the Purchaser has not paid to the Seller at least fifty percent (50%) of the principal balance of the purchase price by July 1, 2005, the Seller shall have the right to terminate this Contract as described in this Paragraph 16B. Pursuant to the Loan Agreement of even date herewith, which is described above, Opportunities and the City are required to make certain Initial Development Loans and Additional Development Loans to the Purchaser to be used for the improvement and development of the Property as an industrial park. The Loan Agreement also requires that the Seller make certain Initial Development Loans and Additional Development Loans to the Purchaser for the same purpose.


In the event that fifty percent (50%) of the principal amount of the purchase price has not been paid by July 1, 2005, the Seller shall have the option of paying to Opportunities and to the City the remaining amount of principal and accrued interest owing on the Initial Development Loans and the Additional Development Loans; and shall forgive any amount which the Purchaser owes to the Seller under the Contract for Deed or the Initial Development Loans and Additional Development Loans. Upon such payment and forgiveness, the Purchaser shall deliver to the Seller a Quit Claim Deed to the remaining

property and upon delivery of such Quit Claim Deed, the Contract for Deed shall be deemed terminated.

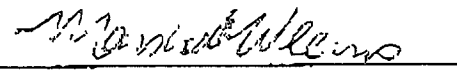
17. **BINDING EFFECT.** The terms of this Contract shall run with the land and bind the parties hereto and their successors in interest.
18. **HEADINGS.** Headings of the paragraphs of this Contract are for convenience only and do not define, limit or construe the contents of such paragraphs.
19. **EXECUTION OF COUNTERPARTS.** For the convenience of the parties, this Contract has been executed in counterpart copies, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.
20. **AS IS CONDITION.** The Seller is transferring the Property to Purchaser in its "as is" condition with no warranties or representations of any nature or type whatsoever, except for those relating to marketable title contained in Paragraph 3 above.

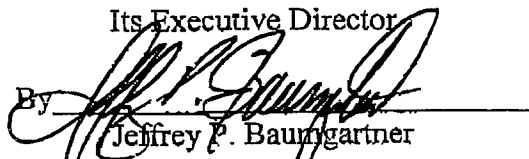
THE SELLER CERTIFIES THAT THE SELLER DOES NOT KNOW OF ANY WELLS ON THE DESCRIBED REAL PROPERTY.

EAST CENTRAL ENERGY

By 
Douglas Severson
Its Vice President

**HOUSING AND REDEVELOPMENT
AUTHORITY IN AND FOR THE CITY
OF ST. CLOUD, PURCHASER**

By 
Marshall Weems
Its Executive Director

By 
Jeffrey P. Baumgartner
Its Chairman

STATE OF MINNESOTA)
) SS
COUNTY OF Chisago)

On this 12th day of September, 2001, before me, a Notary Public within and for said County, personally appeared Douglas Severson, the Vice President of East Central Energy, a Minnesota Cooperative Corporation, on behalf of the Corporation, Seller, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Patricia D. Moulton
Notary Public PATRICIA D. MOULTON
Notary Public-Minnesota
My Comm. Expires Jan. 31, 2005

STATE OF MINNESOTA)
) SS
COUNTY OF Stearns)

On this 12th day of September, 2001, before me, a Notary Public within and for said County, personally appeared Marshall Weems, the Executive Director of the Housing and Redevelopment Authority in and for the City of St. Cloud, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Bruce R. Thielman
Notary Public

BRUCE R. THIELMAN
NOTARY PUBLIC - MINNESOTA
My Comm. Exp. Jan. 31, 2005

STATE OF MINNESOTA)
) SS
COUNTY OF Benton)

On this 21 day of September, 2001, before me, a Notary Public within and for said County, personally appeared Jeffrey P. Baumgartner, the Chairman of the Housing and Redevelopment Authority in and for the City of St. Cloud, to me known to be the person described in, and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Mary J. Forner
Notary Public

MARY J. FORNER
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

TAX STATEMENTS TO BE SENT TO:

Attn: Executive Director
Housing and Redevelopment Authority in and for the City of St. Cloud
1225 West St. Germain Street
St. Cloud, MN 56301

THIS INSTRUMENT WAS DRAFTED BY:

RINKE-NOONAN
Wells Fargo Center, Suite 700
P.O. Box 1497
St. Cloud, MN 56302
(320) 251-6700

**FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER
PARTIES PRIORITY OVER PURCHASER'S INTEREST IN THE PROPERTY.**

EXHIBIT A

LEGAL DESCRIPTION

That part of the East Half of the Southwest Quarter (E1/2 SW1/4) Section 29, Township 36, Range 30 Benton County, Minnesota, that lies southerly of Parcel 204 and Parcel 204A (southerly right-of-way line of Service Road) according to the recorded plat of MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY PLAT NO. 05-4, except the east 300.00 feet of the Northeast Quarter of the Southwest Quarter thereof. Containing 50.944 acres.

AND

The Northeast Quarter (NE 1/4); less and except therefrom the West 250 feet of the South 400 feet thereof;

ALSO: The North Half of the Northwest Quarter (N1/2 NW1/4); less and except that part of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) described as follows: Commencing at the northwest corner of the NW1/4 of NW1/4; thence South along said line 330 feet; thence East at a right angle 330 feet; thence North at a right angle 330 feet; thence West at a right angle 330 feet to the point of beginning; all located in Section 32, Township 36 North, Range 30 West, Benton County, Minnesota. Containing 241.41 acres and subject to the road right-of-way easement over the east and south part thereof, and any other easements of record.

AND

The North Half of the Northwest Quarter (N 1/2 of NW 1/4) of Section Thirty-three (33), Township Thirty-six (36) North, Range Thirty (30) West, Benton County, Minnesota.