

## **Interim Use Application – Ramsey Excavating**

**3800 1<sup>st</sup> Street North, Minneapolis, MN**

### **Proposed Use and Description of the Project:**

The premises located at 3800 1<sup>st</sup> Street North, Minneapolis, MN is to be used by Ramsey Excavating / Minneapolis Concrete Recyclers for; stock piling Aggregate products, staging equipment necessary to complete projects, processing Aggregate products and hauling away aggregate materials and other related purposes. Hours of operation will be Monday through Friday 7:00am -6:00pm. Hours on Saturday if necessary are from 7:00am – 4:00 pm. The use of premises will continue until the end of the land use agreement dated December 31, 2017 (Reference item 2 on attached Land Use Agreement)

### **Interim Use Conditions and Guarantees:**

Ramsey Excavating / Minneapolis Concrete Recyclers will conduct its operations on the premises in compliance with all applicable local, state and federal laws, rules, regulations and permits and in accordance with River Services underlying agreement with the City of Minneapolis. Ramsey Excavating / Minneapolis Concrete Recyclers is responsible for obtaining all necessary governmental permits and complying with all laws and government regulations. The Interim use will operate until the end of the Land Use Agreement dated December 31, 2017. (Reference Item 2 on attached Land Use Agreement)

**LAND USE AGREEMENT**

THIS LAND USE AGREEMENT ("Agreement") is made and entered into as of the FIRST DAY of APRIL 2015, by and between RIVER SERVICES, INC., a Minnesota Corporation (hereinafter "River Services") and RAMSEY EXCAVATING COMPANY, INC., a Minnesota Corporation (hereinafter "Client").

**RECITALS:**

WHEREAS, Client wishes to utilize a portion of the property located at the Port of Minneapolis operated by River Services on behalf of the City of Minneapolis (the "Terminal"); and

WHEREAS, River Services is willing to grant to Client the right to use such property on the terms and conditions hereinafter provided.

**NOW, THEREFORE,**

**WITNESSETH:**

That for and in consideration of the promises and agreements hereinafter described to be kept and performed by each of the parties, the parties agree as follows:

1. Premises. Subject to the terms and conditions hereof, River Services hereby grants to Client the right to occupy a total of three (3) acres within the bounds of the property that River Services manages for the City of Minneapolis as more particularly depicted on Exhibit A attached hereto and incorporated herein by reference (the "Premises"). The Premises consists of one parcel containing three (3) acres located at 3800 1<sup>st</sup> St. N , Minneapolis, MN 55412. River Services reserves the right to relocate the Premises to another location (of reasonably equivalent size and usefulness to the



Client) at the Terminal upon six months written notice, provided the costs of such relocation shall be paid by River Services.

2. Use of Premises. The Premises may be used by Client for (i) stock piling aggregate products;(ii) staging equipment necessary to complete specified projects identified to River Services; (iii) processing aggregate products if permitted by the City of Minneapolis and (iv) hauling away aggregate materials and other related purposes./ Business hours to handle materials will be from 7:00 am – 6:00 pm Monday thru Friday. Hours on Saturday, if necessary, are from 7:00 am – 4:00 pm.

Client shall conduct its operations on the Premises in compliance with all applicable local, state and federal laws, rules, regulations and permits and in accordance with River Services' underlying agreement with the City of Minneapolis. Client shall be responsible for obtaining all necessary governmental permits and complying with all present and future laws and government regulations, including environmental and health and safety laws and regulations. Client shall make no capital improvements to the Premises.

3. Hazardous Substances Restriction. Client shall not deliver, use, generate store, release, threaten to release, contain or dispose of any petroleum or related products, Hazardous Substance or any wastes (including, without limitations, garbage and refuse) on the Premises. "Hazardous Substances" means, at any time, any substances, materials, chemicals or waste, whether solid, liquid or gas, the presence of which requires investigation or remediation under, or which is or becomes regulated by, any federal, state or local government authority or any flammable, infectious, radioactive, carcinogenic, or mutagenic, including, without limitation, any material, waste, chemical or substance which is: (A) defined as a "Hazardous", "extremely hazardous" or "restricted hazardous" waste, material or substance under the laws of the

governmental jurisdiction where River Services is located and/or to which the same are subject; (B) petroleum or a petroleum product, including, without limitations, gasoline and diesel fuel; (C) crude oil or any fraction thereof, (D) urea formaldehyde; (E) radon gas; (F) asbestos or asbestos containing; (G) polychlorinated biphenyls; (H) designated as a "hazardous substance" pursuant to Section 311 of the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to section 307 of the Federal Water Pollution Control Act, (33 U.S.C. § 1317); (I) defined as a "hazardous waste" Pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); or (J) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA") (42 U.S.C. § 9601). It is understood and agreed by River Services that the forgoing restriction shall not apply to the use of gasoline or diesel fuel for the operation of motors or motor vehicles or equipment necessary for the activities authorized to be conducted on the Premises.

4. Term. The term of this Agreement shall commence on April 1, 2015 and continue until December 31, 2017 or until either party delivers written termination notice to the other party, after which this Agreement will terminate twelve (12) months from the date of the termination notice.

5. Maintenance. Client shall, at its sole cost and expense, maintain the Premises and provide all security that Client deems necessary to protect its property located on the Premises.

The Premises shall be maintained and returned in as good and orderly condition as it is as on the date of this Agreement.

6. Rent Payments. Client shall pay River Services (checks made payable to the City of Minneapolis) a monthly rental fee of \$8,168 from April 1, 2015 to March 31, 2016;

\$8,385 from April 1, 2016 to March 31, 2017 and \$8,600 from April 1, 2017 to December 31, 2017., Client shall be responsible for any taxes imposed pursuant to Minnesota Statutes §272.01 as a result of this Agreement.

7. Workers Compensation. Client shall, throughout the term of this Agreement, obtain and maintain in effect all insurance required by Minnesota law for the purpose of providing the appropriate Workers Compensation coverage for its employees. If at any time Client shall allow such insurance to lapse, River Services may, at its option, immediately terminate this Agreement notwithstanding any other provisions of this Agreement.

8. Insurance. Client covenants and agrees to obtain, keep and maintain, in full force and effect, at all times, all insurance required by River Services. A copy of River Services' current insurance requirements is attached hereto as **Exhibit B** and incorporated herein by reference. Such insurance shall (i) name River Services and the City of Minneapolis, as additional insureds, (ii) be primary and not contributory as to any insurance said parties shall have in effect, and (iii) be carried by Client on an annual basis with a minimum thirty (30) days' written termination notice to River Services. The obtaining and maintenance of said Insurance shall NOT be in lieu of or in discharge of Client indemnification agreements or other agreements made herein.

Client shall, prior to entry on the Premises, furnish to River Services certificates of insurance evidencing that such coverage is in full force and effect. If at any time Client shall allow such insurance to lapse, River Services may, at its option, immediately terminate this Agreement notwithstanding any other provisions in this Agreement.

9. Waivers of Subrogation. River Services, the City of Minneapolis and the Client waive all rights against each other for damages caused by perils covered by property insurance, except such rights as they may have to the proceeds for such insurance.

The Client waives all of its rights of recovery against the City of Minneapolis or River Services because of deductible clauses in, or inadequacy of limits in any policies of insurance that are in any way related to the Terminal and that are secured and maintained by River Services.

The Client waives all of its rights of recovery against the City of Minneapolis or River Services for loss or damage to any of its equipment used in connection with the management of the Terminal.

If any policies of insurance referred to in this paragraph need endorsement to permit these waivers of subrogation, then it will be the responsibility of the "First Named Insured" to obtain the needed endorsement.

10. Indemnity. Client shall indemnify, hold harmless and defend River Services and the City of Minneapolis and, as applicable, each of their respective parents and affiliates, officers, directors, members, employees, agents, invites, contractors, subleases, guests, successors and assigns (hereinafter referred to collectively and individually as Indemnified Party) (A) against and from any and all claims arising out of or related to (i) this Agreement, (ii) Client acts or omissions or operations or use of the Premises, or (iii) any other persons acts or omissions or operations to the extent such other person is using the Premises with Client permission, actual, or implied, including without limitation any claim for death of or injury to persons (including employees of Client) or destruction of or damage to property (including the property of the Indemnified Party); (B) against and from any and all claims imposed on or

asserted against an Indemnified Party as a result of the failure of Client or its operations and (C) against and from any and all costs, expenses, fines, penalties, damages (including attorney's fees), or other liabilities relating to any such claims or resulting from the prosecution of any such claims except for claims based on the sole negligence or willful misconduct of River Services. These covenants of indemnity shall survive cancellation, termination or expiration of this Agreement.

11. Contract is Not Assignable. Client shall not have the right to transfer or assign, by operation of law or otherwise, all or any part of this Agreement or the rights, benefits or burdens hereunder without the prior written consent of River Services, and any violation of this covenant shall authorize immediate forfeiture and termination of this Agreement. In connection with that certain Property Management Agreement dated January 1, 2015, between the City and River Services covering the Terminal, if either party thereto terminates such agreement, then the City shall have the right to terminate this Agreement upon twelve (12) months' advanced written notice to Client. Until such time as this Agreement is terminated, the City of Minneapolis shall have the right to assume River Services' rights and obligations hereunder or assign such rights and obligations to a successor operator of the Terminal.

12. Status of Premises. Client accepts the Premises in its existing condition. Neither the City of Minneapolis nor River Services makes any representations or warranties, expressed or implied, concerning the status of the Premises or its condition. Neither the City of Minneapolis nor River Services shall, in any event, assume or be liable for any loss incurred by Client under this Agreement. Neither the City of Minneapolis nor River Services assumes any responsibility or liability for the present or future condition of the Premises, and neither the City of Minneapolis nor River Services shall be liable to Client for any damage to or destruction or

loss of the Premises or Client property or the property of any other person due to vandalism, theft, fires, floods, accidents, any natural catastrophe or any other cause whatsoever.

13. Default and Termination Client. Client shall be in default and River Services shall have the right to immediately terminate this Agreement and all rights of Client hereunder if:

(A) Client fails to pay as and when due the monthly rental maintenance fee required to be paid hereunder and any such failure continues un-remedied for a period of seven (7) days after written notice of such failure shall have been given by River Services to Client.

(B) Client breaches or otherwise fails to timely perform any of the terms, conditions, covenants, stipulation and/or agreements to be performed by Client under any of the following paragraphs: failure to obtain and maintain insurance as required in Paragraphs 7 and 8; or improper transfer or assignments as prohibited in Paragraph 11; or

(C) Client otherwise fails to perform any of the other terms, conditions, covenants, stipulations and agreements to be performed by Client pursuant to this Agreement, including without limitation, each of the following failure or breaches: failure to maintain the Premises as required in Paragraph 5; or failure to indemnify as require in Paragraph 10; and any such failure or breach continues for a period of seven (7) days after written notice of such failure or breach shall have been given by River Services to Client.

The termination of this Agreement shall not excuse Client from performing all of its obligations which have accrued up to the time of termination or thereafter as required by this Agreement or from liability to River Services for damages or breach of this Agreement by Client.

14. Default and Termination: River Services. Client shall have the right to immediately terminate this Agreement if:

- (A) Client is unable to use the Premises for its intended purpose;
- (B) River Services breaches or otherwise fails to timely perform any of the terms, conditions, covenants, stipulations and agreements to be performed by River Services pursuant to this Agreement.

The termination of this Agreement shall be Client sole and exclusive remedy.

15. Notices. All notices, payments reports, consents and other communications between the parties shall be in writing and addressed to the parties at their respective addresses:

River Services:           River Services, Inc.  
3750 Washington Avenue North  
Minneapolis, MN 55412-2100

Client:                     Ramsey Excavating Company, Inc.  
4060 Washington Ave. N  
Minneapolis, MN 55412

16. Termination. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated by either party giving twelve (12) months' advance written notice to the other party. If any City of Minneapolis ordinance is violated or the City determines the operation of Client is causing a nuisance, this Agreement may be terminated immediately by River Services. In addition, if the City of Minneapolis terminates its agreement with River Services, this Agreement shall terminate.

17. Bond. As part of the consideration for River Services entering into this Agreement, Client shall provide to River Services with a \$25,000.00 security deposit in cash, bond or a letter of credit in a form reasonably acceptable to the City of Minneapolis and River Services on or prior to April 1, 2015. ("the Security Deposit") to insure that Client performs its obligations to clear all debris, aggregate residue, equipment and buildings and leave premises in the same orderly condition as it is on the first day of this Agreement.

18. Eminent Domain.

A. If there is a taking of the Premises by right or threat of eminent domain (a "Taking"), which is either (i) a Taking of the entire Premises or (ii) a Taking of part of the Premises which results in the remainder of the Premises being unable, in Client's good faith judgment, to be restored to a condition suitable for Client's business needs within ninety (90) days from the date of the Taking (a "Substantial Taking"), then in either case this Agreement shall terminate. In such event, the rent shall abate from the date of the Taking, and any rent for any period beyond such date shall be returned to Client.

B. In the event of a Taking which does not result in the termination of this Agreement, then effective as of the date of such Taking, rent hereunder shall be reduced proportionately based on the reduction in the square footage of the Premises resulting from such Taking.

C. All compensation awarded for any Taking of the Premises, including both the fee and the leasehold estate, shall belong to and be the property of the City of Minneapolis.

19. Headings. Paragraph headings are used herein for convenience of reference only and shall not affect the construction of any provision hereof.

20. Interpretation. This Agreement shall be deemed to have been drafted by both parties hereto.

21. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the Premises set forth herein, and no officer or representative of either party shall have authority to subsequently change the same orally. No change shall be valid unless the same shall be in writing and duly executed by each of the parties hereto.

22. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Minnesota (without reference to principals of conflicts

of laws) applicable to contracts executed in and to be performed in that state. It is agreed that this Agreement shall be deemed executed in the State of Minnesota regardless of the actual place of signature or performance.

23. Binding Effect. The covenants and conditions herein contained shall apply to and bind the successors, lessees and assigns of the parties hereto.

24. Waiver. Waiver of any term or condition of this Agreement shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement

25. No Relocation Payment Upon Termination. Client acknowledges that upon termination of this Agreement, Client shall not be eligible to receive nor receive any "relocation benefits" payable pursuant to Minnesota Statutes § 117.52 or any related state or federal regulations. Furthermore, Client waives its rights to receive any such relocation benefits pursuant to Minnesota Statutes § 117.521.

26. Counterparts. This Agreement may be executed manually or by facsimile and in one or more counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

*(Signature page follows.)*

WITNESS the following signatures:

RIVER SERVICES, INC.

BY:

Timothy B. [Signature]

Its:

President

Ramsey Excavating Company, Inc.

BY:

[Signature]

Its:

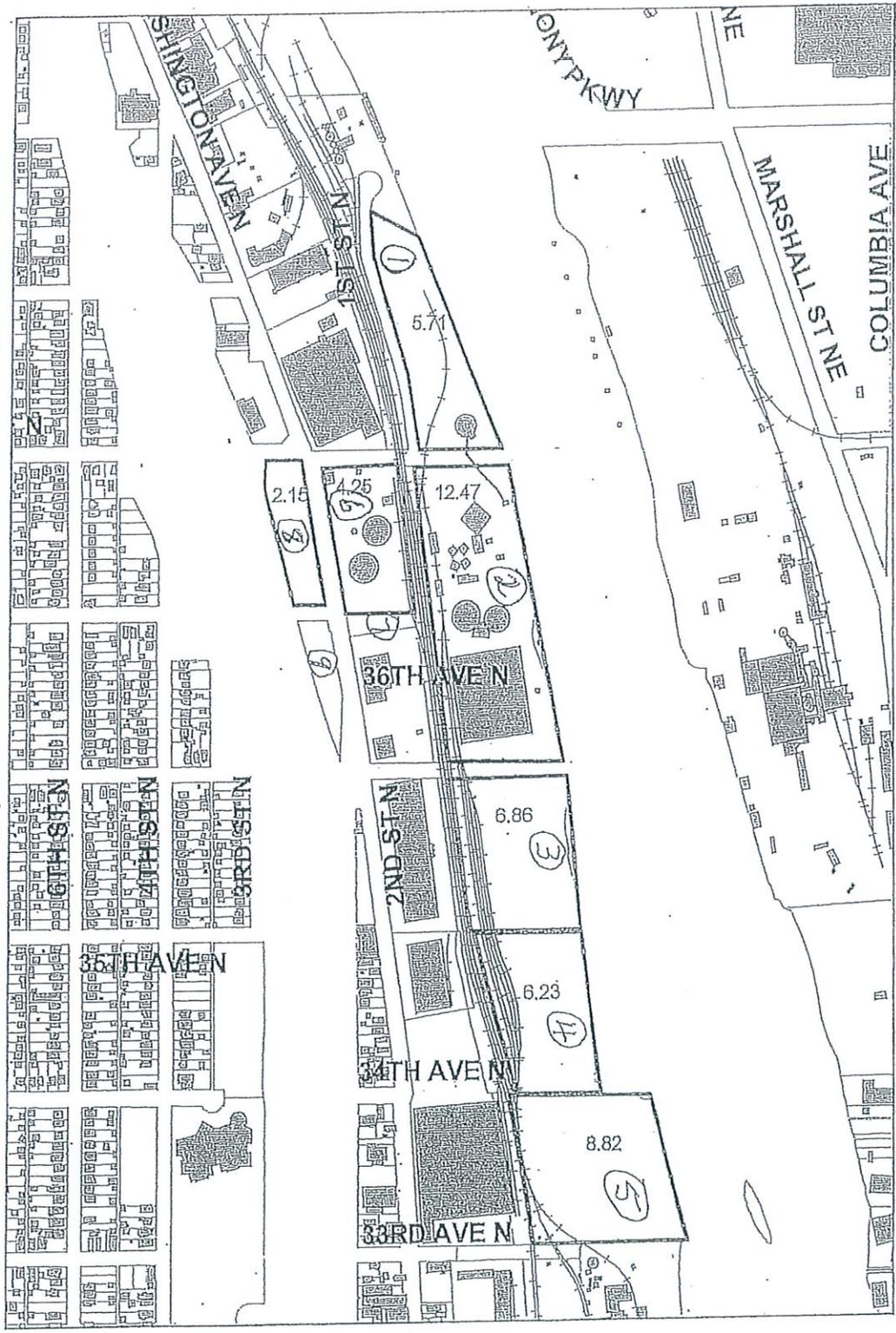
President

EXHIBIT A

DEPICTION OF PREMISES

Approximately 3 acres of the most Southern Section of parcel marked #1 with the address of 3800 1<sup>st</sup> St. N Minneapolis, MN 55412

Next Page will show a diagram of parcel.

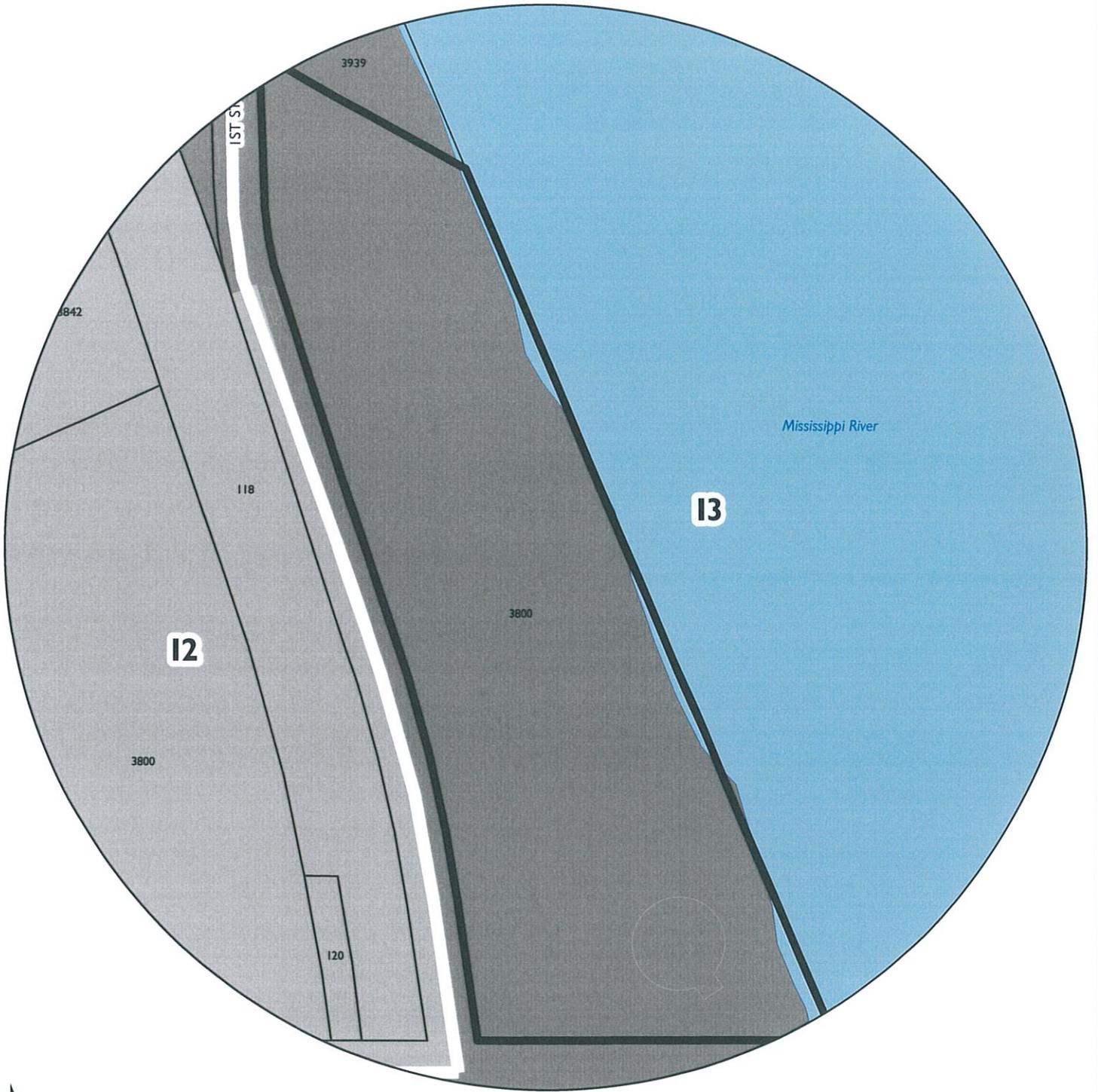


**Ramsey Excavating**

**4th**

NAME OF APPLICANT

WARD



PROPERTY ADDRESS  
**2 Dowling Avenue**

FILE NUMBER  
**BZZ-7896**



Interactive  
Maps

Property  
Map



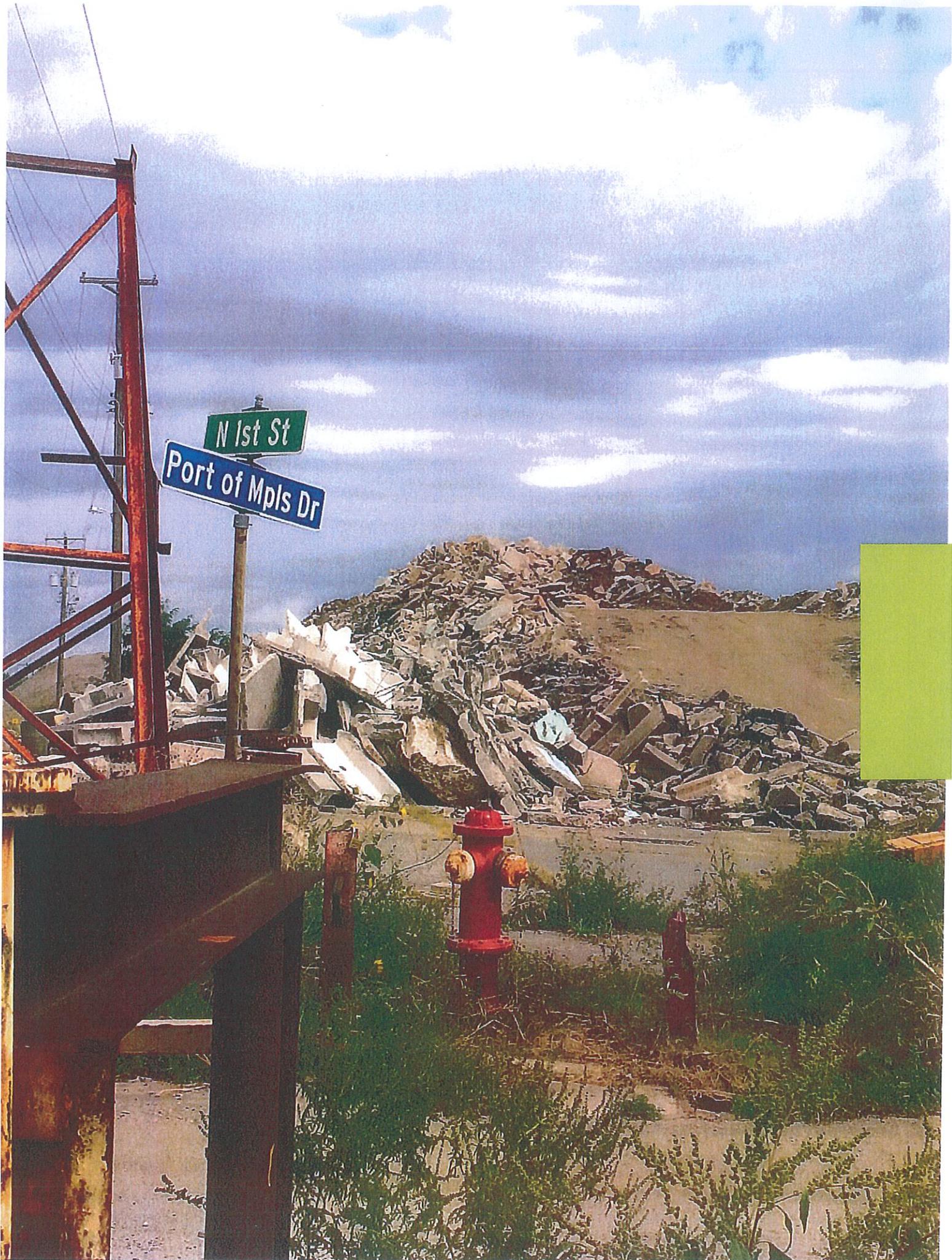
<p><b>Parcel ID:</b> 03-029-24-31-0008</p> <p><b>Owner Name:</b> City Of Mpls</p> <p><b>Parcel Address:</b> 3800 1st St N Minneapolis, MN 55412</p> <p><b>Property Type:</b> Industrial-Preferred</p> <p><b>Home-stead:</b> Non-Homestead</p> <p><b>Parcel Area:</b> 5.71 acres 248,589 sq ft</p>	<p><b>A-T-B:</b> Torrens</p> <p><b>Market Total:</b> \$0</p> <p><b>Tax Total:</b> \$0.00 (Payable: 2015)</p> <p><b>Sale Price:</b></p> <p><b>Sale Date:</b></p> <p><b>Sale Code:</b></p>	<p>Map Scale: 1" ≈ 400 ft.</p> <p>Print Date: 9/8/2015</p> <div style="text-align: center;"> </div> <p>This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.</p> <p>COPYRIGHT © HENNEPIN COUNTY 2015</p> <p style="text-align: right;"> Think Green!</p>
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bing Maps

3800 1st Street North, Minneapolis, MN

On the go? Use [m.bing.com](http://m.bing.com) to find maps, directions, businesses, and more





N 1st St  
Port of Mpls Dr













August 1, 2016

Barbara Johnson  
Minneapolis City Council President  
350 S. 5<sup>th</sup> Street – Room 307  
Minneapolis, MN 55415

Dear Ms. Johnson,

Ramsey Excavating / Minneapolis Concrete Recyclers is currently submitting an Interim Use permit to the City of Minneapolis for the site located at 3800 1<sup>st</sup> Street North, Minneapolis, MN (Hennepin County Property Map attached). The area located at the above address will be used for the following purposes; stock piling Aggregate products, staging equipment necessary to complete projects, processing Aggregate products and hauling away aggregate materials and other related purposes. Hours of operation will be Monday through Friday 7:00am -6:00pm. Hours on Saturday, if necessary, are from 7:00am – 4:00 pm. We are submitting the permit so the use of premises can continue until the termination of the land use agreement with River Services, Inc. dated December 31, 2017.

If there are any questions regarding the interim use application referenced above, you may contact Sheri Loegering at Ramsey Excavating, 4060 Washington Avenue North, Minneapolis, MN 55412. Phone 612-529-0077 x203.

Sincerely,

  
Sheri Loegering

Attachment: Hennepin County Property Map



August 1, 2016

Linda Koelman  
Board Chairperson, Webber-Camden Neighborhood Organization  
1206 37<sup>th</sup> Avenue North  
Minneapolis, MN 55412

Dear Linda,

Ramsey Excavating / Minneapolis Concrete Recyclers is currently submitting an Interim Use permit to the City of Minneapolis for the site located at 3800 1<sup>st</sup> Street North, Minneapolis, MN (Hennepin County Property Map attached). The area located at the above address will be used for the following purposes; stock piling Aggregate products, staging equipment necessary to complete projects, processing Aggregate products and hauling away aggregate materials and other related purposes. Hours of operation will be Monday through Friday 7:00am -6:00pm. Hours on Saturday, if necessary, are from 7:00am – 4:00 pm. We are submitting the permit so the use of premises can continue until the termination of the land use agreement with River Services, Inc. dated December 31, 2017. 3.00

Ian Alexander, a representative working with Ramsey Excavating is willing to address the neighborhood association if requested. In the meantime, if there are any questions regarding the interim use application referenced above, you may contact Sheri Loegering at Ramsey Excavating, 4060 Washington Avenue North, Minneapolis, MN 55412. Phone 612-529-0077 x203.

Sincerely,

  
Sheri Loegering

Attachment: Hennepin County Property Map