City Clerk

GUARANTEE OF PARKING REVENUES

IN

SEVEN CORNERS MUNICIPAL PARKING RAMP FACILITY

BETWEEN

CITY OF MINNEAPOLIS

AND

GRANDMA'S SALOON AND DELI, INC.

THIS AGREEMENT is made and entered into as of the 3rd day of November, 1982, by and between the CITY OF MINNEAPOLIS, a municipal corporation of the County of Hennepin, State of Minnesota, hereinafter called "City" and GRANDMA'S SALOON AND DELI, INC., a Minnesota Corporation hereinafter called "Developer";

WITNESSETH:

WHEREAS, the City has applied to the United States Department of Housing and Urban Development for an Urban Development Action Grant (UDAG) and had received preliminary approval for said Grant; and

WHEREAS, a grant agreement between the United States Department of Housing and Urban Development and the City identified as B-81-AA-27-0022 (hereinafter called the "Grant Agreement"), has been executed and which grant agreement requires that the City construct, own, and manage a municipal parking ramp of not less than 600 spaces using $1,794,000 of UDAG funds and $1,986,000 of local tax increment funds in the Seven Corners Project Area; and that the City enter into a guarantee of parking revenue agreement for 100 spaces in said municipal parking ramp with the Developer;

WHEREAS, the CDA, using tax increment funds will acquire the real property on which the municipal parking ramp is to be constructed and will convey said property to the City at no cost, and

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

ARTICLE 1

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

"Grantor Agency" or "Government" means the United States Department of Housing and Urban Development.

"Revenue Guarantee Term" means the term of this Agreement of forty (40) years.

"City" means the City of Minneapolis.

"CDA" means the Minneapolis Community Development Agency.

"Revenue Guarantee Agreement" means this Agreement, which may be from time to time modified, amended or supplemented.

"Public Facilities Property" means the real property described in Attachment A hereto.

"Revenue Guarantee Year" means a period of twelve (12) consecutive months beginning on the date of opening of the Seven Corner's Parking Ramp and on any anniversary thereof.

"Developer" and "Guarantor" means Grandma's Saloon and Deli, Inc., a Minnesota corporation.

"Maintenance and Operation Expenses of Ramp" means costs incurred annually, including but not limited to the following items, as well as amounts contributed to reserves for extraordinary expenses:

Salaries of operating manager
Salaries of employees working at facility
Bookkeeping and accounting services
Worker's Compensation Insurance
FICA taxes
Unemployment taxes
Health and welfare plans
Pension plans

Facility repairs and maintenance
Equipment repairs and maintenance
Equipment rental (when approved by City Engineer)
Operational supplies required to operate facility
Insurance and bond premiums, if applicable
Utilities (telephone-installation charges only
Reserve for extraordinary repairs to facility and replacement of equipment

"Project" means the proposed Seven Corner's Municipal Parking Ramp and related private development.

"State" means the State of Minnesota.

"UDAG" and/or "Grant Agreement" means the Urban Development Action Grant between the United States Department of Housing and Urban Development and the City of Minneapolis identified as B-81-AA-27-0022.

"Urban Renewal Plan" means the plan for redevelopment of the Cedar-Riverside Urban Renewal Area as adopted 9/27/68 and modified from time to time.

ARTICLE 2

Section 2.1. Representations by the City: The City represents that:

(a) The City is a political subdivision of the State of Minnesota and has the power and authority to accept title to the Public Facilities Property conveyed to it by the CDA, to construct the Public Improvements which it will construct and to enter into this Guarantee of Revenue Agreement and carry out its obligations hereunder.

Section 2.2. Representations and Warranties by the Guarantor: The Guarantor represents and warrants that:

(a) The Guarantor is a Minnesota corporation and is duly authorized to conduct its business under the laws of the State of Minnesota, has power to enter into this Revenue Guarantee Agreement and has by proper action authorized the execution of this Revenue Guarantee Agreement.

(b) The execution and delivery of this Revenue Guarantee Agreement and the performance of the covenants and obligations of the Guarantor under this Revenue Guarantee Agreement are authorized and in full compliance with applicable laws governing corporations, and do not and will not conflict with or result in a breach of the terms, conditions or provisions of any agreement or instrument of whatever nature to which the Guarantor is now a party or by which it is bound.

ARTICLE 3

Pre-Construction Activities

Section 3.1. Acquisition and Transfer of Project Site Ownership. CDA has agreed with the City to acquire site for Seven Corner's Municipal Parking Ramp using local tax increment funds and to transfer ownership to City at no cost to the City.

Section 3.2. Relocation, Demolition, Site Improvements. CDA has agreed with the City to perform Project-related relocation, demolition and site improvement activities using local tax increment funds.

ARTICLE 4

Ownership, Management & Construction of Parking Ramp

Section 4.1. Ownership and Management of Ramp. City shall own the Seven Corner's Municipal Ramp located at intersection of Cedar Avenue and 15th Avenue S. and shall manage said ramp in accordance with procedures established

detail in this Agreement.

Section 4.2. Construction of Ramp. City agrees to construct a Municipal Parking Ramp of not less than 600 spaces on the Project site using $1,794,000 UDAG funds and $1,986,000 tax increment funds. Ramp construction shall be completed according to the performance schedule set out in the Grant Agreement as amended.

ARTICLE 5

Terms and Conditions of Parking Ramp Revenue Guarantee

Section 5.1. Overall Revenue Guarantee Term. City agrees to a revenue guarantee arrangement with the Guarantor for the non-exclusive use of 100 spaces in the Seven Corner's Municipal Ramp for a period of forty (40) years, beginning on the 1st day of ramp operation and continuing from such beginning date through the____day of_____, 19___, providing all the conditions herein have been adhered to.

Section 5.2. Amount of Revenue Guarantee. Developer agrees to guarantee parking revenues to the City for 100 spaces on an annual basis, which shall include a basic amount in lieu of debt service of $52,832/year or ($528/space), and an amount equal to the actual annual incurred costs of management, maintenance, and operation of the ramp as audited by an independent public accountant, which are estimated to be $25,000/year or ($250/space). Said guarantee amounts, if necessary, shall be due 60 days after the end of each operating year and, thereafter, on each anniversary of said date.

Section 5.3. Provision for Periodic Increases in Revenue Guarantee Amount. Developer and the City shall review management, maintenance and operation expenses, as defined in Section 1 of this Agreement, for the Seven Corner's Municipal Parking Ramp every year. Subject to the findings of said review, the portion of the total guarantee amount dedicated to offsetting annual maintenance and operation expenses may be adjusted. Any adjustments shall be based on the past year's expenses actually incurred as well as projected expenses for the succeeding year.

[illegible] of Guarantee Payment. Within 30 days of the end of each year of operation of the ramp, all revenues shall be aggregated by the ramp manager and audited by an independent public accountant. This annual aggregate revenue amount shall be allocated on a per-space basis for each space in the entire ramp. In the event the amount of annually generated ramp revenues per space times 100 ramp spaces does not equal the sum of the required revenue guarantee amounts, then the Guarantor shall pay to the City within thirty (30) days the amount of said difference or shortfall. In the event that annual ramp revenues meet or exceed the sum of the two revenue guarantee amounts, the Guarantor shall not be required to make any additional payments to the City.

ARTICLE 6

Maintenance and Operation of Ramp

Section 6.1. General Operation. The City agrees to enter into a contract with a private management company to manage, operate and maintain the facility at all times in a professional, economical and businesslike manner consistent with procedures and operations guidelines used in other City-owned and managed ramps. The City, in the normal course of managing and operating the Seven Corner's Ramp, shall:

a. Provide such operational and maintenance supplies as are reasonably necessary to operate the facility.
b. Provide bookkeeping and accounting functions.
c. Pay for all utilities, including gas, water and electricity.
d. Maintain all operating equipment.
e. Maintain and furnish a business office in a location within the facility, as designated by the City.
f. Require that the ramp manager maintain garagekeeper's liability and workmen's compensation insurance.

Section 6.2. Specific Operation of Facility. The City agrees to operate the facility on the days and during the hours as specified by the City Engineer and as agreed to by both parties herein. Hours of operation may be changed from time to time, as initiated by the City at the request of the Guarantor. It is the present intention of the parties herein to operate the facility on an hourly basis.

(a) At no time during the operation of the Ramp shall any spaces be exclusively marked or reserved, but shall be available to the general public on a first-come, first-serve basis.

Section 6.3. Parking Rates. The rates, rents, fees and charges to be assessed and collected by City for parking in the entire ramp shall be established by the City after consultation with the Guarantor about the rate structure.

Guarantor initially may suggest a schedule of parking rates to the City and from time to time may request changes to any schedule of parking rates then in effect. Guarantor agrees to furnish to the City such information concerning the basis for the initial and any subsequent proposed schedule of parking rates as the City may reasonably require.

The initial schedule of parking rates and any changes thereto as established by the City Engineer shall be effective upon written submission to the Guarantor and shall be deemed accepted by the Guarantor if written notice of the specific disagreement thereof is not given by the Guarantor to City within thirty (30) calendar days after submission by City of such schedules of parking rates or changes thereto. The City shall use its best efforts to obtain revenues from the Parking Ramp such that a prorated share of the revenues for 100 spaces equals or exceeds the Guarantee Amount.

The following rate structure shall be in effect upon initial opening of the facility.

Housing rate	-- $____	not to exceed $____ per day
Event rate	-- $____	
Overnight rate	-- $____	

Section 6.4. Maintenance Obligations of City: The City agrees to maintain the facility, and all parts thereof, in good condition and repair and in as safe condition as its operation will reasonably permit; making all repairs thereto, which may be reasonably necessary for this purpose, including not not limited to the following:

[illegible] all pavement markings, bumper guards and wheel blocks.

b. Supply electric light bulbs and replace worn-out bulbs and fuses.

c. Maintain and care for all plantings.

d. Maintain and replace all gates and barricades.

e. Maintain all washrooms and toilets according to the standards established by the City Engineer.

f. Maintain the premises in a clean, presentable condition and not allow dirt, paper or trash of any kind to accumulate upon the premises; and remove snow, ice and other obstructions from the property and from adjacent driveways and sidewalks. The snow and debris removed shall not be placed upon the public ways or any portion thereof.

g. Make minor necessary repairs to the plumbing, lighting and heating; the City Engineer to determine what constitutes a minor repair.

h. Maintain and keep in good working order all neon directional, information, and advertising signs.

Section 6.5. Damage or Destruction of Parking Ramp. If the Parking Ramp is damaged or destroyed at any time during the term of this Agreement, the City shall be obligated to repair or rebuild the Parking Ramp as quickly as is reasonably possible to enable the Developer to meet City parking requirements.

ARTICLE 7

Events of Default and Remedies

Section 7.1. Events of Default. Upon the failure of either party hereto to observe and perform its covenants and obligations hereunder, such party shall, upon written notice from the other, proceed to cure or remedy such failure within thirty (30) days after receipt of such notice, or, except for failures defined as Events of Default herein, such longer period as may be reasonably required to cure or remedy such failure. If action is not taken after notice duly given to cure or remedy such failure within the period herein specified, the party failing to observe or perform its covenants and obligations hereunder shall have suffered or incurred an Event of Default and the aggrieved party may, without further notice, pursue the following remedies set forth herein.

(a) Failure by the Developer to pay when due the Guarantee Amount and interest thereon calculated in the manner set forth in Section 5.2. hereof.

(b) Either the City or the Developer shall fail duly to observe or perform any of the terms, conditions, covenants, or agreements required to be observed or performed by them hereunder.

(c) Any representation of warranty made herein by either the City or the Developer shall prove to have been untrue in any material respect or materially misleading as of the time such representation or warranty was made.

Section 7.2. Rights and Remedies of the Developer and City Upon Default. Upon the occurrence of an Event of Default suffered or incurred by either the City or the Company and at any time thereafter, the non-defaulting party may, at its option, exercise any and all of the following rights and remedies:

(a) Recover from the defaulting party, by appropriate proceedings, such damages as the non-defaulting party may be entitled to at law as a result of such Event of Default.

(b) Compel, by appropriate proceedings, specific performance by the defaulting party of its obligations hereunder.

(c) Pursue such other rights and remedies as it may have at law or in equity.

ARTICLE 8

Miscellaneous

Section 8.1. Notices. All notices, demands or other communications hereunder shall be in writing and shall be deemed given (or shall be deemed received if receipt is required) when personally delivered on the fifth (5th) business day after deposit in the United States mail if sent by certified or registered mail, postage prepaid, with return receipt requested with proper address as indicated below. The City and Developer may, by notice given each to the other, designate any address or addresses to which notices, certificates or other communication to them shall be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, demands and communications to each of them shall be addressed as follows:

To the City:

City Coordinator
301M City Hall
Minneapolis, MN 55415
Attn: Robert Moffitt

With copies to:

Minneapolis City Attorney
A-1700 Hennepin County Government Center
Minneapolis, MN 55487

City Engineer
Traffic Engineering Department
201 City Hall
Minneapolis, MN 55401

To the Developer:

Grandma's Saloon & Deli, Inc.
522 Lake Avenue S. at Canal Park
Duluth, MN 55801

Section 8.2. Payments to City. All payments to be made to the City by the Developer pursuant to this Agreement shall be made to the Office of the Comptroller/Treasurer of the City pursuant to procedures established by the Chief Financial Officer of the City.

Section 8.3. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.4. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the City and the Developer and their respective successors and assigns.

Section 8.5. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

[illegible] changes and modifications. Except as otherwise provided in this Agreement, this Agreement may not be effectively amended, changed, modified, altered or terminated except by written instrument executed by the City and the Developer.

Section 8.7. Government Approval of Amendments. No contract or agreement required hereunder to be submitted to and approved or accepted by the Government shall be amended in any material respect, after such approval and acceptance, without the prior written approval of the Government.

Section 8.8. Disclaimer of Relationship. Nothing contained in this Agreement or in the UDAG Contract, nor any act of the Government or of the City or of the Developer shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, or of principal and agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the Government.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed and attested by their duly authorized officers, and the Developer has caused its corporate seal to be hereunto affixed, all as of the date first above written.

CITY OF MINNEAPOLIS

By _____
Mayor

ATTEST:

By _____
Assistant City Clerk

COUNTERSIGNED:

By _____
Comptroller-Treasurer

GRANDMA'S SALOON & DELI, INC.

By: _____

Its: _____

Approved as to Legality:

_____
Assistant City Attorney