

EXECUTION COPY

**JOINT POWERS AGREEMENT
FOR THE REDEVELOPMENT OF THE TWIN CITIES ARMY AMMUNITION PLANT**

By and Between

**THE CITY OF
ARDEN HILLS, MINNESOTA**

and

**THE COUNTY OF RAMSEY
STATE OF MINNESOTA**

Dated as of: December 17, 2012

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**JOINT POWERS AGREEMENT
FOR
THE REDEVELOPMENT OF THE TWIN CITIES ARMY AMMUNITION PLANT**

THIS JOINT POWERS AGREEMENT (the "Joint Agreement" or the "JPA") is made and entered into as of the _____ day of _____, 2012, by and between the City of Arden Hills, a Minnesota municipal corporation (the "City") and the County of Ramsey, a political subdivision under the laws of Minnesota (the "County").

RECITALS

A. The County of Ramsey (the "County") is the Purchaser under that certain Offer to Purchase, as Amended (the "OTP"), by and between the County and the United States of America, by the General Services Administration, as Seller ("GSA"), for a portion of the real property located in the City of Arden Hills (the "City") commonly referred to as the Twin Cities Army Ammunition Plant ("TCAAP"). (The real property which is the subject of the OTP contains approximately 427 acres of land and is referred to in this Joint Agreement as the "TCAAP Site"). The purpose of County for purchasing the TCAAP Site is to facilitate the clean up of existing environmental contamination, elimination of blight and the redevelopment of the TCAAP Site for new development pursuant to the TCAAP Master Plan, as defined below.

B. Portions of the TCAAP Site contain environmental contamination as more fully described in existing environmental reports (the "Contamination"). The OTP provides for remediation of the Contamination pursuant to a lease from GSA to County (the "Lease"). At the closing of the sale and purchase as provided in the OTP, GSA will convey to County ownership of fee title to the land, and related improvements, of the TCAAP Site that is not contaminated (the "Initial Conveyance"), and will lease to County the contaminated portions of the TCAAP Site (the "Lease Site"). Pursuant to the Lease, County will undertake and complete within the time period as agreed to by and between County and GSA, which is currently contemplated to be at least three years, the remediation of the Contamination to a level sufficient to permit redevelopment on the Lease Site (the "County Remediation" and "Developer Remediation" as defined hereafter). Conveyance of ownership of good and marketable fee simple title to the entire TCAAP Site to County will take place when the County Remediation is finished (the "Final Conveyance").

C. The TCAAP Site also contains buildings and other improvements that are no longer useable, are blighting influences, and need to be removed for the TCAAP Site to be fully redeveloped (the "County Site Clearance" and "Developer Site Clearance" as defined herein).

D. The "New Development" (as described in these Recitals and defined in Section 1.1 below) requires investment by County to purchase the TCAAP Site and complete the County Remediation and County Site Clearance, investment by City to work with County to develop and implement the redevelopment plans to guide the New Development, and significant investment in public infrastructure by City and County pursuant to the TCAAP Master Plan (as defined below).

E. County and City (collectively the "Parties", individually a "Party") desire and intend that redevelopment of the TCAAP Site take place to remediate and eliminate blighting conditions and to make possible and result in significant amounts of New Development to provide employment opportunities, improve the tax base, and improve the general economy of the City, the local community and Ramsey County as a whole. The New Development will include the construction of necessary off-site and on-site transportation improvements such as the Spine Road, as well as internal streets, water and sanitary and storm sewer and other public facilities and other public and private utilities and improvements to be located on the TCAAP Site ("City Public Improvements" and County Public Improvements", collectively, the "Public Improvements" as defined in Section 1.1). The Parties will develop plans to provide for a mix of residential, commercial, light industrial and other uses utilizing the Public Improvements (collectively, the Public Improvements and the uses proposed for the TCAAP Site comprise the "New Development"). The plans guiding the type of land uses, density, location and timing of implementation of the components of the New Development comprise the "TCAAP Master Plan", as further described in Section 1.1).

F. The New Development will take place within the City. The New Development will require the participation of City to complete environmental review for the TCAAP Site as required by law, by means of a process described as *alternative urban areawide review* ("AUAR"), and application of the City's statutorily mandated planning and zoning authority to develop the TCAAP Master Plan. City will be required to implement its allocated portion of the Public Improvements on the TCAAP Site in a timely manner as identified in the TCAAP Master Plan, and as provided below. The effective and beneficial land use planning and guiding of the New Development, consistent with state statutes and regulations, City's comprehensive plan, zoning code and other applicable ordinances, and the ability to recapture City costs incurred in providing its allocated responsibilities for the Public Improvements to serve the TCAAP Site are matters of great interest and importance to City.

G. The Parties recognize that their cooperation and collaboration are critical for accomplishing the New Development in a manner that is a timely, cost-effective and efficient use of public resources in order to benefit the City, other local communities and Ramsey County as a whole.

H. The Parties intend to exercise their respective authority granted by Minnesota Statutes § 471.59 (the "JPA Act") to establish a joint powers board to be named the "Joint Development Authority" (the "JDA") or such other name as the Parties may determine. The Parties intend that the JDA shall be a governmental entity of the State which is authorized to exercise to the extent permitted by the JPA Act, the general laws of the State of Minnesota, and Laws 2009, Chapter 88, §16 applicable to the TCAAP Site, the common powers of each Party for the redevelopment of the TCAAP Site as a governmental entity of the State. These powers include, but are not limited to, remediation of contamination and elimination of blight, infrastructure construction and financing, comprehensive planning and zoning, and redevelopment and economic development.

Therefore, Be It Resolved by the Parties, that this Joint Agreement is made and agreed to as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context requires otherwise, for the purpose of this Agreement, the terms defined in this section shall have the meanings specified:

Agreement means this Joint Powers Agreement as it may be amended, and the “Joint Agreement” or the “JPA”.

Alternative urban areawide review (“AUAR”) means the environmental review for the TCAAP Site required by law and to be prepared by City as the responsible governmental unit (the “RGU”), which will guide the development and implementation of the TCAAP Master Plan.

City means the City of Arden Hills, a political subdivision of the State of Minnesota.

City Investment means the expenditures by the City necessary to undertake its identified responsibilities in support of the New Development, including, but not limited to, preparation of the AUAR and TCAAP Master Plan and construction of the City Public Improvements.

City Public Improvements means construction by the City of the trunk or sub-trunk water mains, storm and sanitary sewer and other public amenities identified as the City’s direct responsibility, and the City’s allocated responsibilities for Shared Public Improvements in the TCAAP Master Plan needed for the New Development.

Commencement Date means January 1, 2013 for the implementation of this Joint Agreement, or such other date as the Parties shall mutually agree.

County means the County of Ramsey, a political subdivision of the State of Minnesota.

County Investment means the expenditures by the County necessary to undertake its identified responsibilities in support of the New Development, including, but not limited to, County Remediation, County Site Clearance, County Public Improvements, initial survey and plat of the TCAAP Site and operations of the JDA.

County Public Improvements means survey and plat of the TCAAP Site, construction by the County of the Spine Road; initial survey and plat of the TCAAP Site; off site transportation improvements; associated private utilities; relocation of existing private utilities; maintenance of County Public Improvements; and possible relocation of all or part of the Groundwater Treatment Infrastructure on the TCAAP Site as described in Section 3.4.

County Remediation means County actions to resolve the environmental contamination on the TCAAP Site consistent with the requirements of the OTP and the Lease with the GSA.

County Site Clearance means the removal by County of buildings and other improvements that are no longer useable, are blighting influences, and/or need to be removed for the TCAAP Site to be fully redeveloped pursuant to the TCAAP Master Plan, consistent with the requirements of the OTP and the Lease with the GSA.

Developer Installed Improvements means the improvements within or serving a Development Site, including trunk and sub-trunk water mains, storm and sanitary sewer, new Private Utilities, streets, trails, parks and other identified public amenities within or serving a Development Site constructed by a developer as described in a development agreement approved by the JDA pursuant to the TCAAP Master Plan

Developer Remediation means the removal by a developer of any remaining environmental contamination on a Development Site consistent with the requirements of the Minnesota Pollution Control Agency's ("MPCA") Voluntary Investigation and Cleanup Program ("VIC Program") pursuant to a response action plan ("RAP") approved by the MPCA; and any applicable County Remediation in order for the Development Site to be fully redeveloped pursuant to the TCAAP Master Plan by the developer.

Developer Site Clearance means the removal by a developer of any remaining buildings and other improvements that are no longer useable, are blighting influences, and/or need to be removed for a Development Site to be fully redeveloped pursuant to the TCAAP Master Plan by a Developer, and consistent with any applicable County Site Clearance, or response action plan ("RAP").

Development Site means a parcel (or parcels) of land on the TCAAP Site identified in the TCAAP Master Plan for location of the New Development as approved by the JDA.

Groundwater Treatment Infrastructure means the network of monitoring wells, underground pipes and treatment plant necessary for remediation of groundwater contamination on and under the TCAAP Site.

Market Study means the study to be prepared by the County designed to account for market considerations and assist the Parties to forecast the need and desirability of the elements of the New Development, which will guide the development and implementation of the TCAAP Master Plan.

New Development means off-site and on-site transportation improvements as well as internal streets, water and sanitary and storm sewer, other public facilities and Private Utilities (as defined in this Section) and related improvements (collectively the "Public Improvements" as defined in this Section), and the approved mix of commercial, industrial and residential development authorized by the TCAAP Master Plan.

Parties or a Party means the City and County collectively or individually.

Plan Amendment means the process identified in Section 3.3 required to amend the TCAAP Master Plan.

Private Utilities means telephone, cable, satellite, gas and electric service available on the TCAAP Site necessary to serve a Development Site.

Public Improvements means the construction and financing of necessary off-site and on-site transportation improvements, as well as internal streets, water and sanitary and storm sewer and other public facilities and other public and private utilities and improvements to be located on the TCAAP Site and to be constructed by the City and County as described in this Agreement.

Shared Public Improvements means the design and construction of the TCAAP Site regional storm water retention pond system to be developed as part of the Public Improvements, the cost of which shall be shared by the Parties; and any other public infrastructure improvements determined by the Parties to require, or be appropriate for, shared responsibility.

TCAAP means the Twin Cities Army Ammunition Plant.

TCAAP Joint Development Authority means the joint development agency ("JDA") created by the Parties to develop and implement the TCAAP Master Plan.

TCAAP Master Plan means the plans, official controls and map guiding the density, location and timing of implementation of the components of the New Development on the TCAAP Site, as further defined in the Recitals above and Article III below of this Joint Agreement.

TCAAP Site means the real property which is the subject of this Joint Agreement and which contains approximately 427 acres of land where the New Development is proposed, as depicted on attached Exhibit A.

Term means the Initial Term of this Joint Agreement ending in 2038 as provided in Section 5.5 of this Joint Agreement; and any Additional Term as defined therein

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ARTICLE II

JOINT DEVELOPMENT AUTHORITY

Section 2.1. Authorization. City and County each certify that the authority to enter into this Joint Agreement has been established by a resolution approved by the governing body of each Party. This Joint Agreement is effective as of the date first stated above in the caption of this Joint Agreement and shall continue in force until modified or terminated by the Parties as provided herein.

Section 2.2. General Purpose. Pursuant to the authority of the Joint Powers Act, the Parties desire and intend that the redevelopment of the TCAAP Site take place to remediate and eliminate blighting conditions and to make possible and result in implementation of the New Development as defined in Section 1.1 The plans guiding the type, density, location and timing of implementation of the components of the New Development comprise the "TCAAP Master Plan", as further described in this Joint Agreement. The goals of the New Development are to redevelop the TCAAP Site to provide employment opportunities, improve the tax base, and improve the general economy of the City, the local community and Ramsey County as a whole.

Section 2.3. Joint Development Authority. Pursuant to the authority of the Joint Powers Act and this Joint Agreement, the Parties hereby create a joint powers board titled the **TCAAP Joint Development Authority** (the "JDA"). The purpose of the JDA is to exercise to the extent permitted by the Joint Powers Act and the general laws of the State, the authority found in Laws 2009, Chapter 88, §16 applicable to the TCAAP Site and the common powers of the Parties for the redevelopment of the TCAAP Site. These activities to be conducted under this authority include, but are not limited to, environmental remediation, elimination of blight, infrastructure construction and financing, comprehensive planning and zoning, and economic development and redevelopment.

2.3.1. JDA Board Membership. The JDA Board shall consist of five (5) members appointed as provided in this Section (also "the "Board"). Each Party shall appoint two (2) members from its respective governing body. City shall also appoint to the Board a suitable non-elected official member to serve as the Chair of the JDA Board. City Board members shall be residents of the City at the time of appointment and maintain residency during their term. The term of each member shall be a two (2) year term. Each Party may determine in its discretion the length of service of its respective Board members. In the case of a vacancy on the Board of a member from either Party, that Party shall appoint a new member to fill the respective vacancy for the remainder of that term. Each member shall serve until their successor is appointed and qualified as provided by each Party. Each member shall serve without compensation; however each Party may determine whether to pay per diem to their respective members pursuant to their own policy and procedures.

2.3.2. JDA Board General Authority. The JDA Board shall have the general authority as described in this Section:

a. The JDA Board Vice Chair shall be a member appointed by the County.

b. The JDA Board shall adopt its own bylaws and rules of procedure to govern its activities and guide the setting, holding and cancellation of meetings. The Board may appoint committees or sub-committees. The Board shall meet monthly at such times and places as determined by the Board and as provided in its bylaws or rules of procedure, but shall not meet at times of regularly scheduled meetings of the Ramsey County Board or Arden Hills City Council unless agreed to by the Parties. Special meetings may be called by the Chair or any two other members. The JDA shall keep minutes of all proceedings. A majority of all the members shall constitute a quorum. A simple majority vote of the members present at a meeting with a valid quorum shall be required for the JDA to take action, unless otherwise provided in this Joint Agreement or by law. All meetings of the JDA, its committees and sub-committees shall be governed by the Open Meeting Law and the Data Practices Act.

c. Each member of the JDA Board shall have one vote.

d. Each Party may also name an alternate appointee to serve in the capacity as a substitute for any member appointee of that Party (and who meets the qualifications for membership on the Board), in the event a member appointee is unable to attend a scheduled meeting of the JDA or any committee or subcommittee thereof. Such substitute appointee shall also have the right to vote on any action requiring a vote of the member appointee, including all substantive as well as procedural actions, when performing as a substitute for a regular member.

2.3.3. Finances. Each Party will be responsible for payments out of their respective budgets for their own staff costs, as well as any per diem and other expenditures for those staff to assist in implementing the JPA until the JDA commences operations. Upon approval of this Agreement, County shall fund the expenses of the JDA, including reimbursement of purchased services pursuant to Section 2.3.4.2. Consistent with its policies, County shall serve as the fiscal manager/agent for the JDA and assist in setting up such accounts as necessary for the JDA to conduct its activities ("Fiscal Agent"), as provided below and as shown on attached **Schedule E**.

2.3.3.1. The JDA may establish independent JDA bank accounts, to be managed by the Fiscal Agent, into which all revenue receipts generated by and belonging to the JDA and those proceeds which the Parties may authorize to be borrowed as interfund loans, shall be deposited intact to the credit of such JDA accounts.

2.3.3.2. No disbursements shall be made from such accounts except by check or Electronic Funds Transfer (EFT), nor unless a verified claim for services and/or commodities actually rendered or delivered has been submitted to and approved for payment by the JDA.

2.3.3.3. No disbursements shall be made from such accounts for non-JDA expenses and purposes. Payment and disbursement of funds by check or withdrawal shall require the signatures of the Chair of the JDA and the individual designated by the County to assist in JDA fiscal matters, which shall be the Director of Finance or designee.

2.3.3.4. Revenue collected by the JDA shall be paid to the Parties as described in Section 3.7.

2.3.4. Annual Budget. The JDA shall prepare an annual budget and submit it to the Parties as provided in this section.

2.3.4.1. With the first annual budget and in subsequent years, the JDA shall each year prior to May 1 prepare an annual operations budget that estimates funding required by the JDA to conduct its business over the next calendar year. The JDA shall coordinate its budget process with the Parties' budget planning process. Prior to September 1 of each year, the JDA shall, after its review and approval, submit the annual budget to the City and County. The budget shall be substantially balanced. The budget shall follow the format as established by the JDA after consultation with the City Finance Director and the County Director of Finance, and at a minimum provide the following information:

- (1) Estimated Revenues, divided as follows:
 - a. Any Grant monies, private, State or Federal
 - b. Revenues from JDA Application fees
 - c. Revenues from JDA Permit fees
 - d. Contributions from County
 - e. Reserves
 - f. Developer escrow/fees
 - g. Miscellaneous revenues

- (2) Estimated Expenditures, divided as follows:
 - a. Personnel services
 - b. Contract Services
 - i. Legal
 - ii. Engineering
 - iii. Fiscal/Audit, including the Fiscal Agent
 - iv. Planning
 - v. Administrative
 - c. Services other than personnel or consultants
 - d. Supplies and materials
 - e. Office administration, e.g., phones, supplies
 - f. Capital Outlay (incl. Office and Building rent if applicable, equipment such as phones and computers)
 - g. Payment of invoices for services to the JDA provided by a Party.
 - h. Miscellaneous expenditures

2.3.4.2. The Parties may determine that a service or services as described above are available from a Party and direct the JDA to purchase such service from that Party at that Party's cost, with payment to be made by the JDA from its authorized funds as stated in the approved budget.

2.3.4.3. The annual budget proposed by the JDA shall be reviewed and transmitted to the Parties. Each Party shall review, provide comments to the JDA and the other Party and approve the annual budget. The proposed JDA annual budget approved by the Parties pursuant to this process shall be reported back to the JDA by November 15 (preceding the ensuing calendar/fiscal year). Thereafter the JDA shall adopt and implement the budget approved by the Parties. The annual budget may be amended consistent with the process described in this Section.

2.3.4.4. The JDA may incur expenses and make expenditures that may be necessary to the effectuation of its purposes and powers, in conformance with the statutory requirements applicable to contracting and purchasing practices of the Parties, the approved annual budget and this Joint Agreement.

2.3.4.5. The JDA shall develop a reimbursement policy including payment priority for payment to the Parties of allocated fee or other income described in this Agreement. The policy shall provide for monthly reimbursement to the Parties.

2.3.5. Taxes. The JDA itself shall not levy taxes, issue bonds or independently borrow money, and it shall not approve any claims or incur any obligations for expenditures unless there is unencumbered cash in the appropriate JDA accounts described herein, to the credit of the JDA with which to pay the same, or as otherwise approved by the Parties. Any unexpended revenues in excess of the approved budget may remain deposited in JDA accounts and reported annually in the subsequent year's budget submission.

2.3.6. Interfund Loans. Notwithstanding the prohibition against independent borrowing, the JDA may borrow money from the Parties in the form of interfund loans to the extent that such loans are not made from dedicated funds or from funds or monies otherwise encumbered, subject to the mutual consent and approval of the Parties, and subject to the terms and conditions of repayment agreed to by the Parties.

2.3.7. Personnel. Unless otherwise approved by the Parties, the staff of the JDA shall be the City Administrator and the County Manager, or their designees. Each Party may also designate additional staffing as it deems appropriate or as requested by the JDA. The JDA may hire consultants including independent legal, engineering, planning and development consultants to assist in the development of the TCAAP Master Plan and amendments and revisions thereto, preparation of financing plans, marketing plans, developer proposals, the marketing and sale of Development Sites pursuant to the RFP process described in Section 3.2.4, and other matters which address growth and development on the TCAAP Site.

2.3.8. Reports. The JDA shall prepare an annual report at the end of each calendar/fiscal year and submit such report to the Parties not later than February 15 of the succeeding calendar/fiscal year. The JDA shall also prepare and present to federal and state officials such reports and audits as may be required by law, regulation, or contract.

2.3.9. Public Process. The JDA shall develop mechanisms for public involvement in any planning or review process, including the preparation and approval of the TCAAP Master Plan and approval of development agreements. All public meetings and hearings shall be conducted as required by law. The JDA shall take into consideration the concerns, issues and desires of each Party's governing body in on-going planning initiatives, discussions and process.

2.3.10. Other Authority. The JDA shall have such other authority under the general laws of Minnesota to carry out its purposes unless otherwise determined by the Parties. Where deemed by the Parties to be more convenient, the authority of the JDA may be exercised by the more appropriate Party.

2.3.11. Dispute Resolution. The Parties shall use good faith to attempt to resolve any dispute. Upon agreement, the Parties may also use any available dispute resolution process.

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ARTICLE III

TCAAP MASTER PLAN

Section 3.1. Development of the AUAR and the TCAAP Master Plan; General Requirements. The TCAAP Master Plan will provide for development phasing, taking into account market considerations as well as the financing and investment needs and capacity of County as the purchaser of the TCAAP Site, County's obligations to complete the County Remediation and County Site Clearance, survey and plat of the TCAAP Site and the financial commitment of both Parties for the Public Improvements. City will prepare the AUAR in conjunction with the preparation of the TCAAP Master Plan, as provided in this Article III, including the hiring of any planning and engineering or other consultants it deems reasonably necessary to prepare the AUAR and the TCAAP Master Plan. The City will exert its best efforts to complete the AUAR within eighteen (18) months of the effective date of this Joint Agreement, and to complete the TCAAP Master Plan within six (6) months of the adoption of the AUAR, but not later than twenty-four (24) months of the effective date of this Joint Agreement for completion of the AUAR and the Master Plan. The JDA and County shall have the ability to review and comment during the preparation of the AUAR and Master Plan.

3.1.1. City Development Standards. The Parties will work cooperatively to ~~ensure~~ that the City's development standards and goals expressed in its comprehensive plan and zoning code, as each may be amended, are incorporated into the TCAAP Master Plan to enable the JDA to proceed with timely development of the TCAAP Site as provided in this Agreement. The Parties recognize that upon purchase of the TCAAP Site County may desire to pursue development of a Development Site prior to completion of all the County Remediation and the adoption of the TCAAP Master Plan. It is in the interest of the Parties for redevelopment of TCAAP to occur timely and responsively to market demand. As a result development of a Development Site(s) may occur before completion of the TCAAP Master Plan to the extent there are roads and public utilities available to serve the selected Development Site. In such event the Parties and JDA will proceed in accordance with this Joint Agreement to the extent feasible. However, the Parties agree that the City comprehensive plan, zoning ordinance and city review process as required by statute shall guide and control such proposed development pending completion of the TCAAP Master Plan.

3.1.2. Approval of TCAAP Master Plan. The JDA shall recommend to the Parties a public process for consideration of the Master Plan prior to final approval by the Parties. Upon presentation of the TCAAP Master Plan as prepared pursuant to this Article III, the Parties shall review, comment, suggest revisions and reasonably exercise their discretion to approve the TCAAP Master Plan in a timely manner. The TCAAP Master Plan shall be approved by means of a resolution of each Party's governing body. The JDA shall implement the TCAAP Master Plan as approved by the Parties.

Section 3.2. Elements of TCAAP Master Plan. The City shall direct its staff and consultants to prepare the TCAAP Master Plan at City expense. The TCAAP Master Plan shall specify the planning requirements for the TCAAP Site consistent with the City's current

approved comprehensive plan and official controls in the zoning code, and as such may be amended, in conjunction with the TCAAP Master Plan as it is initially developed.

3.2.1. Planning Elements. The TCAAP Master Plan shall include the following planning elements and as further provided in Schedule B:

- a. Definition of the public engagement process;
- b. Land Use Component;
- c. Circulation and Movement Component;
- d. Utilities Component;
- e. Environmental Remediation Component;
- f. Parks and Open Space Component;
- g. Implementation Plan; and
- h. Regulatory Plan

Upon adoption by the Parties, the TCAAP Master Plan shall be an element of the City's approved comprehensive plan, and the City shall take all necessary actions to conform zoning code provisions applicable to the TCAAP Site to the TCAAP Master Plan.

3.2.2 Implementation Authority. Except as otherwise provided under this Joint Agreement, the JDA shall apply the TCAAP Master Plan and serve as the "governing body" for purposes of the implementation of the applicable sections of Minnesota Statutes §§ 462.357 – 462.365 with reference to developer initiated requests pursuant to the RFP process for approval of the redevelopment of a Development Site. The TCAAP Master Plan shall incorporate the planning and zoning authority of the City authorized by Minnesota Statutes §§ 462.357-462.358 and implement that authority as follows:

- a. Provide for development phasing, taking into account market considerations as well as the financing and investment needs and capacity of County as the purchaser of the TCAAP Site, County's obligations to complete the County Remediation and County Site Clearance, and the financial commitment of the Parties for the Public Improvements.
- b. The use of planned unit development (PUD) authority to implement development of the permitted uses described in the Master Plan;
- c. Dedication of land for public rights of way, public and private utility easements and park dedication;