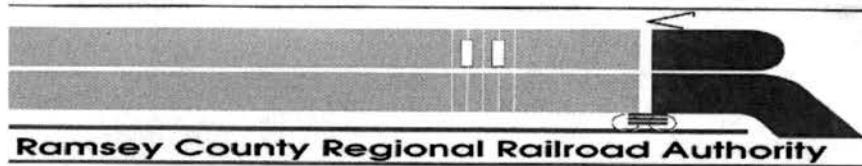




Ramsey County Regional Railroad Authority.
Records.

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6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760 / FAX (651) 266-2761

REGIONAL RAILROAD AUTHORITY MEETING

AGENDA

June 23, 2009

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

ROLL CALL and Call to Order

AGENDA of the June 23, 2009 Board Meeting is presented for approval.

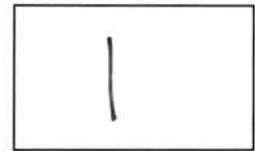
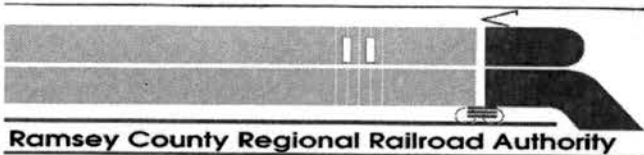
ADMINISTRATIVE AGENDA

1. Purchase Union Depot Building (Head House) St. Paul, Minnesota

Action Requested

1. Authorize and approve the final purchase agreement for Leventhal's property for the purchase price of \$400,000.
2. Authorize the Chair to sign and deliver the final Agreement for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office and Property Management.
3. Authorize the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreement for Sale and Purchase of Property, subject to prior approval by the County Attorney's Office.
4. Authorize and approve that all costs, expenses, taxes, charges or fees that Ramsey County is required to pay at closing, or otherwise required by the purchase agreement, may be paid from a 2008 project approved by the Regional Railroad Authority board for use in developing the Union Depot as a multi modal transportation hub.

ADJOURNMENT



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date:

Regional Railroad Authority Meeting Date: 06/23/09

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

EXECUTIVE SUMMARY

On June 2, 2009, the Ramsey County Regional Railroad Authority authorized and approved the final purchase agreement with Frenz, for the purchase of the Union Depot (Head House) ("Union Depot"); accepted and approved the due diligence report, and estimated total purchase costs and 2009 operating budget for the Union Depot; and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreement for Leventhal's Property.

The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, have included the following terms into the final purchase agreement with Leventhal's (Attachment 1):

(Executive Summary continued on Next Page)

ACTION REQUESTED

1. Authorize and approve the final purchase agreement for Leventhal's property for the purchase price of \$400,000.
2. Authorize the Chair to sign and deliver the final Agreement for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office and Property Management.
3. Authorize the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreement for Sale and Purchase of Property, subject to prior approval by the County Attorney's Office.
4. Authorize and approve that all costs, expenses, taxes, charges or fees that Ramsey County is required to pay at closing, or otherwise required by the purchase agreement, may be paid from a 2008 project approved by the Regional Railroad Authority board for use in developing the Union Depot as a multi modal transportation hub.

Executive Summary Continued

- Purchase price of \$400,000.
- Down payment of up to \$25,000 due within 3 days of execution of the Purchase Agreement.
- Due diligence has been completed.
- Closing on or before June 30, 2009.

The Regional Railroad Authority and Property Management are requesting the Ramsey County Regional Railroad Authority to authorize and approve the final purchase agreement for the purchase of Leventhal's Property.

The Regional Railroad Authority closed on the Frenz property on June 15, 2009.

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

ATTACHMENTS:

1. Final Agreement for Sale and Purchase of Property for Leventhal's Property.

PREVIOUS ACTION:

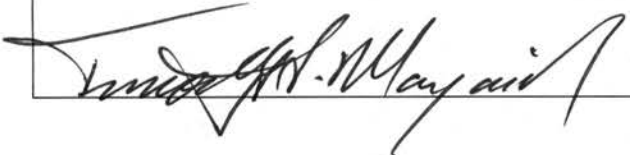
Resolution No. R09-15: On April 21, 2009, the Ramsey County Regional Railroad Authority authorized and approved the draft purchase agreements for the purchase of the Union Depot (Head House) and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing.

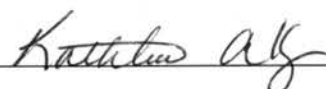
Resolution No. R09-18: On June 2, 2009, the Ramsey County Regional Railroad Authority authorized and approved the final purchase agreement with Frenz; accepted and approved the due diligence report, and estimated total purchase costs and 2009 operating budget for the Union Depot; and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreement for Leventhal's Property.

COUNTY MANAGER'S COMMENTS:

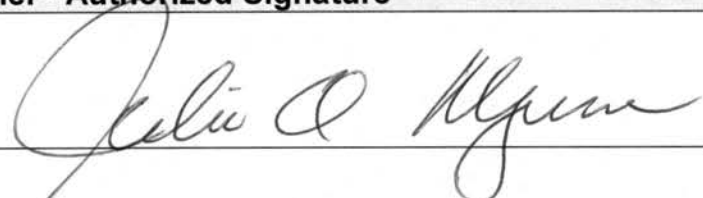
The purchase of the Union Depot head house is consistent with the Regional Railroad Authority's long-term vision to create a multi-modal transportation hub in downtown St. Paul. Its purchase allows the Rail Authority to own the premier multi-modal facility in the Twin Cities allowing Ramsey County's and the region's residents and businesses access to light rail, high speed rail, Amtrak, commuter rail, intra and intercity buses, bicycle and pedestrian facilities at a single location.

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

Regional Railroad Authority – Authorized Signature	Date
	6-18-09

Budgeting & Accounting – Authorized Signature	Date
	6/16/09

County Attorney – Authorized Signature	Date
	6/16/09

Other– Authorized Signature	Date
	6-18-09

Other– Authorized Signature	Date

Other – Authorized Signature	Date

Subject: Purchase Union Depot Building (Head House), St. Paul, Minnesota

Draft Resolution

WHEREAS, On June 2, 2009, the Ramsey County Regional Railroad Authority authorized and approved the final purchase agreement with Frenz, for the purchase of the Union Depot (Head House); accepted and approved the due diligence report, and estimated total purchase costs and 2009 operating budget for the Union Depot; and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreement for Leventhal's Property; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, have included the following terms into the final purchase agreement with Leventhal's (Attachment 1):

- Purchase price of \$400,000.
- Down payment of up to \$25,000 due within 3 days of execution of the Purchase Agreement.
- Due diligence has been completed.
- Closing on or before June 30, 2009; Now, Therefore, Be It

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and approves the final purchase agreement for Leventhal's property for the purchase price of \$400,000; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the Chair to sign and deliver the final Agreement for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office and Property Management; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreement for Sale and Purchase of Property, subject to prior approval by the County Attorney's Office; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and approves that all costs, expenses, taxes, charges or fees that Ramsey County is required to pay at closing, or otherwise required by the purchase agreement, may be paid from a 2008 project approved by the Regional Railroad Authority board for use in developing the Union Depot as a multi modal transportation hub.

REAL ESTATE PURCHASE AND SALE AGREEMENT

Dated as of June 23, 2009

1. **Effective Date.** The date this Agreement is approved in substance by the Buyer's Board of Commissioners shall be the "Effective Date".

2. **Parties and Recitals.** The parties to this Real Estate Purchase and Sale Agreement ("Agreement") are:

a. Fit Depot, LLC, a Minnesota Limited Liability Company, whose address is 214 4th Street East, # 114, St. Paul, Minnesota 55101("Seller"); and

b. Ramsey County Regional Railroad Authority, whose address is 660 Government Center West, 50 West Kellogg Boulevard, Saint Paul, Minnesota 55102-1657, Attention: Jolly Mangine, Phone (651) 266-2261; Fax (651) 266-2264; email: jolly.mangine@co.ramsey.mn.us ("Buyer"). Buyer is a public entity that has the power of eminent domain.

This Agreement sometimes refers to Seller or Buyer, as a "Party" or to Seller and Buyer, collectively, as the "Parties".

3. **Property.** The term "Property" as used in this Agreement means:

a. The fee simple title to the real property, legally described in **Exhibit A** which is attached hereto and made a part hereof, located in the City of St. Paul, County of Ramsey, Minnesota, together with (i) all parking facilities, fixtures and improvements constructed or located on such real property, and (ii) all easements, air rights, and other rights benefiting or appurtenant to the real property, and (iii) Seller's interest in all neighboring or contiguous alleys, streets, roads, and utilities servicing, pertaining, or relating to the Property constituting a portion of the St. Paul Union Depot Head House (the "Depot"); and

b. Excluding all of Seller's right, title, and interest in the fixtures and personal property expressly described or identified in the attached **Exhibit B**, attached hereto and made a part hereof.

c. Good and marketable title to the Property will be granted by Seller to Buyer pursuant to the terms of a Minnesota Uniform Conveyancing Blank limited warranty deed ("Deed").

4. **Purchase and Sale.** Seller agrees to sell and Buyer agrees to purchase the Property pursuant to the terms and conditions as set forth herein.

5. **No Warranties.** The Property is sold "AS-IS" and "With All Faults." BUYER HAS EXAMINED THE PROPERTY AND FINDS IT SUITABLE FOR BUYER'S NEEDS. SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND AND

HEREBY EXPRESSLY EXCLUDES AND DISCLAIMS ALL WARRANTIES. BUYER TAKES THE WHOLE RISK OF PERFORMANCE AND QUALITY. SELLER IS NOT RESPONSIBLE IF THE PROPERTY DOES NOT PERFORM AS BUYER EXPECTS. SELLER IS NOT MAKING ANY PROMISE TO BUYER ABOUT THE PROPERTY AND DOES NOT WARRANT THAT THE PROPERTY IS MERCHANTABLE OR THAT IT IS FIT FOR ANY PARTICULAR PURPOSE.

6. **Purchase Price; Payment.** The purchase price ("Purchase Price") for the Property shall be Four Hundred Thousand and 00/100 Dollars (\$400,000.00) and shall be payable as follows:

a. \$25,000.00 earnest money (the "Earnest Money"), to be deposited by Buyer with the Title Company (defined below), within three (3) business days after the date of this Agreement. The Earnest Money shall be deposited by the Title Company into a segregated interest-bearing account and all interest accrued thereon, less the reasonable charges of the Title Company for setting up the interest-bearing account, shall be added to the Earnest Money and constitute a part thereof. The Earnest Money shall be applied to the Purchase Price at Closing (defined below) or otherwise disbursed in accordance with the provisions of this Agreement.

b. The balance of the Purchase Price, net of adjustments and prorations provided for in this Agreement, shall be payable to Seller by cash, wire transfer, or other immediately available funds at Closing.

7. **Title Company; Escrow Agreement.** The Parties agree to deposit this executed Agreement in triplicate counterparts with Guaranty Title Company or other title company mutually agreeable to both parties ("Title Company"). The Title Company shall act as escrow agent with respect to the Earnest Money deposit. All costs of the Title Company, if any, with respect to the escrow shall be borne equally by the Parties. Buyer and Seller agree to the terms of the Escrow Agreement attached hereto as **Exhibit C** upon the Title Company's acceptance and execution thereof. The Title Company shall provide Buyer and Seller each with an executed copy of the Escrow Agreement upon receipt of the Earnest Money.

8. **Buyer's Inspection Period**

a. **Buyer's Inspection.** Buyer and its agents may, from the Effective Date to June 23, 2009 (the "Inspection Period") enter the Property to make such examinations, studies, inspections, and investigations of the Property as Buyer deems advisable, upon the following conditions:

(i) Buyer shall give Seller at least one (1) business day's advanced notice each time it proposes to enter the Property;

(ii) Buyer shall have obtained Seller's consent to each entry, which consent Seller may not unreasonably withhold;

(iii) Buyer may enter the Property only on business days and during normal business hours;

(iv) Each or any entrance be in the presence of Seller;

(v) Buyer shall immediately repair, at Buyer's sole cost, all damage to the Property caused by its entry onto and/or inspections of the Property; and

(vi) Buyer shall not undertake any intrusive or destructive testing of the property, including without limitation, a Phase I or II environmental site assessment, without obtaining Seller's express prior written consent, which consent Seller may withhold in its sole and absolute discretion.

b. Indemnification. Buyer shall indemnify, defend, and hold Seller harmless from all claims resulting from any act or omission of Buyer, or any of Buyer's agents, consultants, contractors, or employees in connection with any entry on or investigation or examination of the property before Closing, except that if this transaction does not close, Buyer shall not be responsible for any environmental remediation disclosed as a result of Buyer's inspection and Buyer's indemnification does not include any costs of remediation ("Inspection Indemnity"). The indemnification obligations of Buyer with respect to these matters shall survive the Closing or the termination of this Agreement for any reason, and shall remain in full force and effect after the Closing or any such termination.

c. Contingency. By giving written notice to Seller before the expiration of the Inspection Period, Buyer may, in Buyer's sole discretion, terminate this Agreement and the Earnest Money shall be refunded by the Title Company, if Buyer has found the property unsuitable for Buyer's purpose, in Buyer's sole discretion, and the parties to this Agreement shall have no further liability to each other, except for Buyer's Inspection Indemnity. If Buyer does not deliver a termination notice to Seller before the expiration of the Inspection Period:

(i) Buyer shall be deemed to have accepted the condition of the property;

(ii) Buyer's right to terminate this Agreement pursuant to this section shall be deemed waived; and

(iii) The Earnest Money shall no longer be refundable and shall be deemed fully earned by Seller in all events other than (a) Seller's default and failure to tender conveyance of the Property under this Agreement or (b) termination of this Agreement by Buyer under the provisions of Section 10, 20, 29, or 30.

9. Closing. The purchase and sale of the Property pursuant to this Agreement and delivery of the good and marketable title to the Property granted by Seller to Buyer pursuant to the Deed shall occur at the offices of a the Title Company or at another location mutually

acceptable to Seller and Buyer on June 24, 2009, or such other date mutually agreeable to Buyer and Seller (the "Date of Closing" or "Closing") at which time:

a. Seller shall:

(i) Execute and deliver to the Title Company, with copies to Buyer, any documents required by the Title Company to establish the marketability of Seller's title to the Property;

(ii) Execute and deliver to the Title Company, with a copy to Buyer, the Deed;

(iii) Execute and deliver to the Title Company a Minnesota Uniform Conveyancing Blank Affidavit of Seller evidencing the absence of bankruptcies, judgments, tax liens or marriage dissolution proceedings involving parties with the same or similar names as the Seller and evidencing the absence of mechanic's lien rights for work ordered by the Seller or any other parties except Buyer or Buyer's agents;

(iv) Execute and deliver to Buyer a non-foreign affidavit in recordable form containing the information required under Internal Revenue Code Section 1445(b)(2) and any regulations relating thereto;

(v) Deliver to Buyer and the Title Company such documents as Buyer or the Title Company may reasonably require relating to the organization of Seller, the authority of Seller to convey the Property, and the individual authorized to execute documents on behalf of Seller;

(vi) Deliver to Buyer possession of the Property;

(vii) Mortgage Satisfaction, if any; and

(viii) Pay all costs of the Commitment and one-half of any reasonable or customary closing fee or charge imposed by Title.

b. Buyer shall:

(i) Authorize the Title Company to release the Earnest Money to Seller;

(ii) Tender the balance of the Purchase Price to Seller in the manner provided above;

(iii) Pay one-half of any reasonable or customary closing fees or charges imposed by the Title Company; the premium costs for the Owner's title policy which it desires, if any; state deed tax; recording fees, but not including the payment of principal, interest or prepayment premiums or penalties on any of

Seller's mortgage indebtedness or any other monetary liens, including but not limited to any unpaid real estate taxes, assessments, penalties, and interest, or encumbrances against the Property ("Liens").

10. **Evidence of Title**

a. **Title Commitment.** Seller shall obtain at its expense a commitment for an Owner's Title Insurance Policy with respect to the Property ("Commitment") issued by the Title Company.

b. **Title Objections.** Before the end of the Inspection Period, Buyer shall make written objections to marketability of title based on matters shown therein ("Title Objections"). Buyer's failure to make the Title Objections within such time shall constitute waiver of the right to make the Title Objections to any matters shown in the Commitment; provided that Buyer shall not be required to object to Liens, which shall be satisfied by Seller at Closing. As to any Title Objection, Seller shall have the right, but not the obligation, to cure said Title Objection. If, by end of the Inspection Period, Seller has been unable or unwilling to cure all such Title Objections, then Buyer shall have the right either to terminate this Agreement (without waiving any of its rights to take the Property under its powers of eminent domain) or to waive all such the Title Objections and proceed to Closing.

c. **Survey.** Buyer may, at Buyer's sole cost and expense, update or obtain a survey of the Depot and surrounding areas ("Survey").

d. **Survey Objections.** Before the end of the Inspection Period, Buyer shall make written objections to marketability of title based on matters shown on the Survey ("Survey Objections"). Buyer's failure to make Survey Objections within such time shall constitute waiver of the right to make Survey Objections. As to any Survey Objection, Seller shall have the right, but not the obligation, to cure said Survey Objection. If, by the Date of Closing, Seller has been unable or unwilling to cure all such Survey Objections, then Buyer shall have the right either to terminate this Agreement (without waiving any of its rights to take the Property under its powers of eminent domain) or to waive all such the Title Objections and proceed to Closing.

11. **Real Estate Taxes and Special Assessments.** Seller shall pay all real estate taxes and installments of special assessments payable with respect to the Property ("Taxes") in the calendar year preceding the calendar year in which Closing occurs and prior years, and Buyer shall pay all Taxes payable in the calendar year following the calendar year in which Closing occurs and thereafter. Taxes payable in the year in which Closing occurs shall be prorated between Seller and Buyer based upon the number of days falling on or prior to, and after, the Date of Closing in such calendar year.

12. **Rents, Income and Expenses.** Seller shall be responsible for all utility charges and other operating expenses, which accrue on or prior to the Date of Closing, and Buyer shall be responsible for all utility charges and other operating expenses which accrue after the Date of Closing.

13. **Seller's Representations.** Seller makes the following representations to Buyer:

a. The individual executing this Agreement on behalf of Seller has the legal authority to execute this Agreement on behalf of Seller and to bind Seller.

b. Seller has the legal and entity authority to enter into this Agreement to sell the Property.

c. There are no unsatisfied judgments of record against Seller.

d. There are no state or federal tax liens filed against Seller.

e. To the best of Seller's actual knowledge, there are no unrecorded mortgages, contracts, acquisition agreements, options, leases, easements or other agreements or interests relating to the Property.

f. To the best of Seller's actual knowledge, there is no action, litigation, governmental investigation or administrative proceeding of any kind pending against Seller or involving any portion of the Property, and no third party has threatened Seller with commencement of any such action, litigation, investigation or administrative proceeding.

g. Seller owns the Property, free of all encumbrances except the Permitted Encumbrances stated as exceptions in the Deed.

h. Seller has received no notice of, nor is Seller aware of, any actual or threatened reduction or curtailment of any utility service now supplied to the Property.

i. Seller has not executed any other contracts for the sale or lease of the Property, and there are no existing rights of first refusal or options to purchase or lease the Property or any other rights of others that might prevent the consummation of this Agreement.

j. To the best of Seller's actual knowledge, Seller is not in default concerning any of its legal obligations or liabilities regarding the Property.

k. To the best of Seller's actual knowledge, as of the date hereof and on the Closing Date, the improvements are and will be structurally sound, in good repair and condition, and all mechanical, electrical, heating, air conditioning, drainage, sewer, water, and plumbing systems are and will be in proper working order.

If, at any time prior to the Date of Closing, Seller acquires actual knowledge of events or circumstances which render the representations set forth in this Section inaccurate in any respect, Seller shall immediately notify Buyer in writing. The warranties set forth above survive the Closing of this transaction and Seller's delivery of the Deed to Buyer.

14. **Buyer's Representations.** Buyer makes the following representations to Seller:

a. The individual executing this Agreement on behalf of Buyer has the legal authority to execute this Agreement on behalf of Buyer and to bind Buyer.

b. Buyer has the legal and entity authority to enter into this Agreement to purchase the Property.

15. **Patriot Act Representation.** Seller and Buyer hereby represent to the other that as of the date hereof and as of the Date of Closing, the following statements are and shall be true, correct and complete without material misrepresentation or omission: (i) it is not a Prohibited Person (as defined below), (ii) it is in compliance with the Anti-Terrorism Laws (as defined below), (iii) it does not conduct any business or engage in any transaction or dealing with any Prohibited Person, or deal in, or otherwise engage in any transaction relating to, property blocked pursuant to Executive Order 13224 (as defined below), and (iv) it has established policies and procedures designed to prevent and detect money laundering, including processes to meet all applicable anti-money laundering requirements of the USA Patriot Act (as defined below). For purposes of the foregoing representations: (1) "Anti-Terrorism Laws" are any laws related to terrorism or money laundering, including Executive Order 13224 and the USA Patriot Act, and any regulations promulgated under either of them, (2) "Executive Order 13224" is defined as Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001, (3) "Prohibited Person" is defined as (a) a person or entity subject to the provisions of Executive Order 13224; (b) a person or entity owned or controlled by, or acting for or on behalf of, an entity that is subject to the provisions of Executive 13224; (c) a person or entity with whom Buyer or Seller is prohibited from dealing by any of the Anti-Terrorism Laws; (d) a person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order 13224; (e) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department's Office of Foreign Assets Control; or (f) a person or entity who is affiliated with a person or entity described in clauses (a) through (e) immediately above, and (4) "USA Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56, as may be amended from time to time.

16. **Seller's Documents and Materials.** To the extent in Seller's possession or control and to the extent not already delivered to Buyer, Seller shall, upon written request by Buyer before the end of the Inspection Period, deliver to Buyer true and correct copies of any leases, contracts, permits, warranties, plans and records, with any amendments thereto, pertaining to or associated with the Property (collectively, the "Seller Deliveries"), for Buyer's examination and analysis.

17. **Confidentiality.** Buyer agrees that, prior to Closing, the information provided to Buyer in the Seller Deliveries shall be strictly confidential, except to the extent such information is public or otherwise available to third parties. Buyer shall have the right to disclose all or any of such information to Buyer's legal counsel, and any professional counselors or consultants used to assist Buyer in this transaction.

18. **Buyer's Contingencies.** Buyer's obligations under this Agreement are contingent upon:

- a. Seller's timely performance of each of Seller's obligations under this Agreement;
- b. The representations set forth in Sections 13 and 15 above being true when made and remaining true in all material respects as of the Date of Closing; and
- c. Title shall have been found acceptable by Buyer, or been made acceptable, and at closing a title insurance policy (the "Title Policy") shall be issued by the Title Company pursuant to the Title Commitment.

The contingencies described in this Section are conditions precedent to Buyer's obligation to perform its obligations under this Agreement. Buyer may, at any time, unilaterally waive one or more of these contingencies by written notice to Seller. By terminating this Agreement, Buyer does not, in any way, waive its right to acquire the Property by eminent domain, now or in the future.

19. **Remedies.** If Buyer defaults in performance of its obligations under this Agreement, Seller shall have the right to terminate this Agreement in the manner provided by Minn. Stat. Sec. 559.21 and to obtain the Earnest Money as liquidated damages. Such termination of this Agreement and receipt of the Earnest Money will be the only remedies available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance. If Seller defaults in performance of its obligations under this Agreement, Buyer may seek specific performance of this Agreement or terminate this Agreement and receive a refund of the Earnest Money and accumulated interest from the Title Company. Such specific performance or termination of this Agreement and receipt of the Earnest Money will be the only remedies available to Buyer for such default by Seller, and Seller will not be liable for damages.

20. **Special Provisions Relating to Eminent Domain and Relocation.**

a. The Buyer is an "acquiring authority" within the meaning of Minn. Stat. § 117.50-117.56 and Buyer is acquiring the Property in lieu of eminent domain. Buyer may be required to provide certain relocation assistance, services, payments and benefits to Seller pursuant to Minn. Stat. § 117.52 and to any occupant of the Property.

b. Seller is aware of the types and amounts of relocation assistance, services, payments and benefits for which an owner may be eligible under state and federal law and based on such knowledge, Seller agrees that Seller is not eligible for and has no right to any relocation benefits in connection with this transaction. In the alternative, to the extent that Seller may be eligible for any such benefits, Seller agrees that it has been compensated for any such relocation payments or benefits by receiving the acquisition price. Notwithstanding the foregoing, in the event that Buyer at any time pursues its rights to acquire the Property or any portion thereof under its powers of eminent domain, Seller shall be entitled to such relocation assistance, services, payments and benefits for which an owner may be eligible under state and federal law.

21. **Time.** Time is of the essence for all provisions of this Agreement.

22. **Survival of Terms.** The Parties' covenants, representations, and warranties under this Agreement shall survive the Closing of the transaction as described herein.

23. **Notices.** All notices provided for in this Agreement shall be in writing. The notice shall be effective as of the date two (2) business days after the Party sending such notice deposits the notice with the United States Postal Service with all necessary postage paid, for delivery to the other Party via certified mail, return receipt requested, at the address set forth in Section 2 above. If Party delivers a notice provided for in this Agreement in a different manner than described in the preceding sentence, notice shall be effective as of the date the other party actually receives the notice. The Party sending the notice shall also mail a copy of the notice to the other Party's attorney via first class United States mail at the addresses set forth below:

Attorney for Buyer: David F. MacMillan
Ramsey County Attorney's Office
50 West Kellogg Blvd. Suite 560
St. Paul, MN 55102
Phone: 651-266-3121
Fax: 651-266-3032
Email: david.macmillan@co.ramsey.mn.us

Attorney for Seller: Timothy J. Foster
8161 33rd Avenue South, Suite 1608
Bloomington, Minnesota 55425
Email: timothyjamesfoster@gmial.com

24. **Entire Agreement.** The Parties acknowledge that this Agreement represents the full and complete agreement of the Parties relating to the Property and all matters related to the purchase and sale of the Property. This Agreement supersedes and replaces any prior agreements, either oral or written, and any amendments or modifications to this Agreement must be in writing and executed by both Parties to be effective.

25. **Brokers.** Each party represents to the other that neither is or has been represented by a broker in this transaction and neither Buyer nor Seller shall pay or be responsible for any real estate brokerage commissions or fees in this transaction. Each Party shall indemnify the other against any and all claims for real estate brokerage commissions or fees in connection with this transaction made by a person claiming such commissions or fees based upon an agreement or contacts with the indemnifying Party.

26. **Governing Law.** This Agreement has been made under the laws of the State of Minnesota and such laws shall control its interpretation and enforcement.

27. **Delivery of Agreement not an Offer; Withdrawal of Offers.** Delivery of an unsigned copy of this Agreement shall not constitute an offer by either Party, and this Agreement shall be binding either of the Parties only upon execution by each Party and delivery of each Party's original, facsimile or other digital signature to the other Party. In the event either party

delivers a signed copy of this Agreement to the other Party, the offer to sell or purchase constituted thereby may be withdrawn at any time by oral affirmation or upon delivery of notice as provided herein.

28. **Operation Prior to Closing.** During the period from the date of Buyer's acceptance of this Agreement through the Closing Date (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent and reasonable business standards, including, but not limited to, maintaining adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief. Seller shall bear the risk of loss or damage caused by any perils through the Executory Period. During the Executory Period, Seller shall execute no contracts, leases, lease amendments, or other agreements regarding the Property or any part thereof, nor shall Seller cause or permit title to the Property to be encumbered or impaired, without the prior written consent of Buyer, which consent may be withheld by Buyer in its sole discretion. Prior to the Closing Date, Seller shall remove from the Property all fixtures and personal property, identified on Exhibit C.

29. **Damage.** If, prior to the Closing Date, all or any part of the Property is substantially damaged by fire, other casualty, the elements or any other cause, Seller shall immediately give notice to Buyer of such fact, and, at Buyer's option (to be exercised by notice to Seller and the Title Company within ten (10) days after Seller's notice), this Agreement shall terminate, in which event the Title Company shall return the Earnest Money to Buyer in accordance with the provisions of the Escrow Agreement. Upon such return, neither Seller nor Buyer shall have any further rights or obligations under this Agreement. If Buyer does not elect to terminate this Agreement despite such damage, or if the Property is damaged but not substantially, Seller shall promptly and diligently commence to repair such damage or destruction and return the Property to its condition prior to such damage. If such damage shall be completely repaired, prior to the Closing Date, then there shall be no reduction in the Purchase Price, and Seller shall retain the proceeds of all insurance related to such damage. If such damage shall not be completely repaired prior to the Closing Date, but Seller is diligently proceeding to repair, then Seller shall complete the repair after the Closing Date and shall be entitled to receive the proceeds of all insurance related to such damage after repair is completed; however, Buyer shall have the right to delay the Closing Date until repair is completed. If Seller shall fail to diligently repair such damage, then Buyer has the right to require the Closing to occur, and the Purchase Price (and specifically the cash payable on the Closing Date) shall be reduced by the cost, as determined by competitive bids by qualified contractors, of such repair; or, by mutual agreement of the Parties, Seller shall assign to Buyer all right to receive the proceeds of all insurance related to such damage, and the Purchase Price shall be reduced by the amount of any applicable deductible, but otherwise shall remain the same. For purposes of this Section, the words "substantially damaged" mean damage that would cost (as so determined) Twenty-Five Thousand Dollars (\$25,000.00) or more to repair.

30. **Condemnation.** If, prior to the Closing Date, any governmental entity commences any eminent domain proceedings ("Proceedings") against all or any part of the Property, Seller shall immediately give notice to Buyer of such fact, and at Buyer's option (to be exercised by notice to Seller and the Title Company within thirty (30) days after Seller's notice), this Agreement shall terminate, in which event the Title Company shall return the Earnest

Money to Buyer in accordance with the provisions of the Escrow Agreement. Upon such return, neither Seller nor Buyer shall have any further rights or obligations under this Agreement. If Buyer does not give such notice, then there shall be no reduction in the Purchase Price, and Seller shall assign to Buyer at the Closing Date all of Seller's right, title, and interest in and to any award made or to be made in the Proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the Proceedings without Buyer's prior written consent.

31. **Review by Counsel.** Buyer and Seller acknowledge that they have been represented by counsel and that their respective counsel have reviewed and approved this Agreement, and the Parties hereby agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

32. **General.** The section and paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This Agreement constitutes the complete agreement between Seller and Buyer and supersedes any prior oral or written agreements between them regarding the Property. There are no verbal agreements that change this Agreement, and no amendment of any of its terms will be effective unless in writing and executed by both Seller and Buyer. This Agreement binds and benefits Seller and Buyer and their respective successors and assigns and has been made under, and will be interpreted and controlled by, the laws of the State of Minnesota. All exhibits referred to in and attached to this Agreement are incorporated in and made a part of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same Agreement. This Agreement is for the benefit of Buyer and Seller only and is not for the benefit of any third party. No third party shall have the right to enforce any provisions of this Agreement.

(Signatures appear on following pages)

Dated: June __, 2009

SELLER:

Fit Depot, LLC

By: _____

Aaron Leventhal

Its: President and Chief Manager

(Separate signature page to Real Estate Purchase and Sale Agreement relating to commercial units in the St. Paul Union Depot, Ramsey County, Minnesota.)

Dated: June __, 2009

BUYER:

RAMSEY COUNTY REGIONAL
RAILROAD AUTHORITY

By: _____

Its: _____

*(Separate signature page to Real Estate Purchase and Sale Agreement relating to commercial
units in the St. Paul Union Depot, Ramsey County, Minnesota.)*

RAMSEY_CTY_ATTYY-_136658-v3-Depot_PA (Lev v.1)

EXHIBIT A

LEGAL DESCRIPTION

Lot 9, Block 1, St. Paul union Depot, according to the recorded plat thereof, Ramsey
County, Minnesota

EXHIBIT B

SELLER'S FIXTURES AND PERSONAL PROPERTY

Seller shall maintain all right, title, and interest in and to the following fixtures and personal property:

1. All light and fan fixtures
2. All rubber flooring
3. All art and other decorations
4. The key-fob entry system
5. All televisions and related equipment and materials
6. The stereo system and related equipment and materials
7. All exercise equipment
8. All shelving and seating
9. All other fixtures and personal property on the Property not expressly granted to

Buyer in writing prior to Closing.

EXHIBIT C

ACKNOWLEDGMENT OF RECEIPT OF EARNEST MONEY AND ESCROW AGREEMENT

1. The undersigned, designated as the **"Title Company"** by the parties to that certain Purchase and Sale Agreement to which this Escrow Agreement is attached (**"Purchase Agreement"**), acknowledges receipt from the "Buyer" under the Purchase Agreement of \$25,000.00 as **"Earnest Money"** under the Purchase Agreement. The **"Effective Date"** under the Purchase Agreement is _____, 2009. Except as otherwise defined in this Escrow Agreement, all capitalized terms herein shall have the meaning given to them in the Purchase Agreement.

2. The Title Company hereby agrees to act as escrow agent and to hold the Earnest Money pursuant to the provisions of the Purchase Agreement, subject to the conditions set forth below.

3. Upon receipt of an appropriate Internal Revenue Service Form W-9, all of said Earnest Money shall be held in an FDIC insured interest bearing account with interest accruing to the benefit of Buyer, unless Seller receives the earnest money as a result of the cancellation of the Purchase Agreement, in which event the interest shall also be disbursed to Seller.

4. Upon notification by both parties in writing that the transaction has closed or if the Title Company is facilitating the Closing of the Purchase Agreement, the Title Company will pay said Earnest Money and interest accrued thereon (the **"Deposit"**) to Seller at the Closing.

5. The Purchase Agreement contemplates circumstances in which Buyer shall have the unilateral right to terminate the Purchase Agreement, including, but not limited to, on or before the end of the Contingency Date, by delivery of written notice to Seller and the Title Company (the **"Termination Notice"**). Upon the Title Company's receipt of the Termination Notice (provided the Title Company receives such Termination Notice on or before the end of the Contingency Date) the Title Company shall immediately and simultaneously: (x) deliver a copy of the Termination Notice to Seller, in the manner provided in the Notice Section of the Purchase Agreement, and (y) disburse the full Deposit to Buyer.

6. If Buyer defaults under its Purchase Agreement obligations and Seller desires to obtain the Earnest Money from the Title Company pursuant to the terms of the Purchase Agreement, Seller shall first be required to present to the Title Company Seller's affidavit of such default (the **"Default Affidavit"**), executed under penalty of perjury by an authorized representative of Seller, certifying to Buyer and the Title Company that: (a) Buyer is in default under the Purchase Agreement and did not cure such default within an applicable time period set forth in the Purchase Agreement, and (b) the Purchase Agreement has been cancelled pursuant to Minn. Stat. Section 559.21, and therefore, Seller is entitled to the Deposit. Upon receipt of the Default Affidavit from Seller, the Title Company shall (i) deliver a copy of the Default Affidavit to Buyer in the manner as provided in the notice section of the Purchase Agreement and (ii) if within five (5) business days after the date on which the Default Affidavit is deemed given to Buyer (pursuant to the notice section of the Purchase Agreement), the Title Company has not

received from Buyer a notice ("**Objection Notice**") objecting to the Title Company's compliance with the Default Affidavit, the Title Company shall deliver the Deposit to Seller.

7. If after the Contingency Date has expired Seller defaults on any of its obligations under the Purchase Agreement and Buyer desires the return of the Earnest Money from the Title Company pursuant to the terms of the Purchase Agreement, Buyer shall first be required to present to the Title Company its own Default Affidavit, executed under penalty of perjury by an authorized representative of Buyer, certifying to Seller and the Title Company that Seller is in default under the Purchase Agreement and did not cure such default within any applicable time period set forth in the Purchase Agreement, and therefore, Buyer is entitled to the return of the Deposit. Upon receipt of such Default Affidavit from Buyer, the Title Company shall (i) deliver a copy of such Default Affidavit to Seller in the manner required pursuant to the notice section of the Purchase Agreement, and (ii) if within five (5) business days after the date on which the Default Affidavit is deemed given to Seller (pursuant to the notice section of the Purchase Agreement), the Title Company has not received from Seller an Objection Notice, objecting to the Title Company's compliance with such Default Affidavit, the Title Company shall deliver the Deposit to Buyer.

8. If the Title Company receives an Objection Notice from either Seller or Buyer within the time period set forth above, then the Title Company shall refuse to comply with the Default Affidavit then in question ("**Objectionable Default Affidavit**") until the Title Company receives either (a) joint written instructions executed by both Buyer and Seller, or (b) a final non-appealable order with respect to the disposition of the Deposit from a federal or state court of competent jurisdiction ("**Court Order**"), in either of which events the Title Company shall then disburse the Deposit in accordance with such written instructions or such Court Order, as applicable. Notwithstanding the immediately preceding sentence, if the party that delivers the Objection Notice does not both (i) commence litigation with respect to the Deposit by filing a complaint or action for a declaratory judgment in an appropriate court of competent jurisdiction ("**Litigation**"), and (ii) provide notice and a file-stamped copy of such complaint or action for declaratory judgment to the Title Company and the other party to this Escrow Agreement within thirty (30) days after delivery of the then-applicable Objection Notice, then the Title Company shall disburse the Deposit in accordance with the Objectionable Default Affidavit.

9. The sole duties of the Title Company shall be those described herein. The Title Company shall be under no obligation to determine whether the parties to the Purchase Agreement are complying with any requirements of law or the terms and conditions of any other agreements among said parties. the Title Company may conclusively rely upon and shall be protected in acting upon any notice, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties, consistent with reasonable due diligence on the Title Company's part. The Title Company may consult the advice of counsel with respect to any issue concerning the interpretation of its duties hereunder. Buyer and Seller hereby acknowledge such fact and indemnify and hold harmless the Title Company from any action taken by it in good faith in reliance thereon. the Title Company shall have no duty of liability to verify any such notice, consent, order or other document, and its sole responsibility shall be to act as expressly set forth in this Agreement. The Title Company shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Agreement. If any dispute arises with respect to the disbursement of any monies, the Title

Company may continue to hold the same or commence an action in interpleader and in connection therewith remit the same to a court of competent jurisdiction pending resolution of such dispute, and the parties hereto hereby indemnify and hold harmless the Title Company for any action taken by it in good faith in the execution of its duties hereunder.

10. In the event of litigation between the parties with respect to this Escrow Agreement, the performance of their respective obligations, or the effect of a termination under the Purchase Agreement or this Escrow Agreement, the losing party shall pay all costs and expenses incurred by the prevailing party in connection with such litigation, including, but not limited to, court costs and reasonable fees of counsel selected by the prevailing party. Notwithstanding any provision of the Purchase agreement or this Escrow Agreement to the contrary, the obligations of the parties under this Section shall survive a termination of either or both of the Purchase Agreement and this Escrow Agreement.

The Title Company hereby acknowledges receipt of the foregoing escrow deposit and agrees to hold the same as above specified.

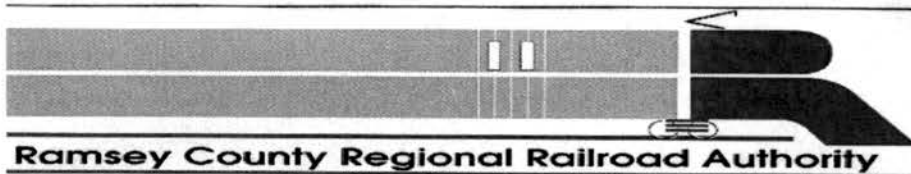
Dated this ____ day of June, 2009.

TITLE COMPANY:

Address:

By:

Its:



6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760 / FAX (651) 266-2761

REGIONAL RAILROAD AUTHORITY MEETING

AGENDA

June 9, 2009

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the June 9, 2009 Board Meeting is presented for approval.

MINUTES of the June 2, 2009 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Ratification of Report of Contracts
2. Approve Second Amendment to the Professional Services Agreement with AECOM USA, Inc. for Union Depot Project Coordination Services
3. Approve Second Amendment to the Professional Services Agreement with URS Corporation for Rush Line Corridor Alternatives Analysis Study
4. Approve Third Amendment to the Professional Services Agreement with URS Corporation for Union Depot Conceptual Engineering and Environmental Assessment Services
5. Approve Fourth Amendment to the Professional Services Agreement with Lockridge Grindal Nauen P.L.L.P. for Federal Lobbying Services
6. Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design, and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

June 2, 2009

The Ramsey County Regional Railroad Authority met in the Council Chambers, Third Floor Court House, with the following members present: Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Absent: Bennett - 1.

Chair McDonough called the meeting to order at 9:05 AM

AGENDA

Commissioner Ortega moved approval of the Agenda of the June 2, 2009 Board Meeting, seconded by Commissioner Rettman. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted.

MINUTES

Commissioner Rettman moved approval of the Minutes from the April 28, 2009 Board Meeting, seconded by Commissioner Reinhardt. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted.

1. Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Reinhardt. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted. (R09-17)

WHEREAS, The Minnesota High Speed Rail Corridor begins at the Union Depot in downtown St. Paul and travels southeast along the Canadian Pacific Railway track to La Crescent prior to entering Wisconsin and continuing on to Chicago; and

WHEREAS, The Ramsey County Regional Railroad Authority adopted the Minnesota High Speed Rail Corridor Joint Powers Agreement ("Agreement") on April 28, 2009; and

WHEREAS, The Agreement has since been adopted by Washington and Dakota, County Regional Railroad Authorities; and

WHEREAS, The adoption of the Agreement has created the Minnesota High Speed Rail Corridor Commission ("Commission") which allows its member parties to cooperatively advocate for and analyze the feasibility, environmental impacts, engineering, construction and operation of an integrated rail transportation system in the Corridor along with the associated land use and development impacts; and

WHEREAS, The Ramsey County Regional Railroad Authority appointed Commissioner Jim McDonough as its representative to the Commission; and

WHEREAS, It is in the best interest of the Ramsey County Regional Railroad Authority to appoint an alternate to the Commission; Now Therefore, Be It

RESOLVED, That the Ramsey County Regional Railroad Authority hereby appoints Commissioner Janice Rettman as its alternative representative to the Minnesota High Speed Rail Commission for 2009.

2. Purchase Union Depot Building (Head House), St. Paul, Minnesota

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Carter.

Jolly Mangine, Director of Ramsey County's Property Management, and Tim Mayasich, Director of the Ramsey County Regional Railroad Authority (RCRRA), addressed the Board to present an overview of this item.

Jolly Mangine said the item has four pieces; the Purchase Agreement, the Due Diligence Report, the operating budget and how it would be managed, should the Board approve and move forward with the purchase. He explained that the highlights of the Purchase Agreement are listed in the executive summary. The price was decreased by \$15,000 for additional parking that was discovered to be dedicated to condo owners during the due diligence period. He also explained that they were not going to move forward with Leventhal's property until the Board approved the purchase of the Head House. However, they do have a draft purchase agreement with Mr. Leventhal and would close before the end of June on that property, if the Board decides to move forward today. Finally, he pointed out that if the Board votes to purchase the Union Depot building, the closing date would be Thursday, June 4, 2009.

Commissioner Parker asked if they have considered the management strategies of the rental properties and retail spaces of the building.

Jolly Mangine responded that they are proposing to hire Welsh Companies for a period of about nine months to do a transition and manage it. First, Welsh would get the rent rows in order because there are rents and fees that still need to be paid. He said Ramsey County will still have an active role, he, Bruce Thompson and Mehrshad Parsakalleh will be the three people working with Welsh. He explained that Welsh has served under contract to manage the West Building of Ramsey County since 1991, which expires in February 2010. They are not looking to extend this contract but are proposing hire them under a separate contract for the nine month period for the initial building management. He said they do not want to lease the space on the main floor until the master plan for the concourse and the great hall has been completed. Therefore, they will manage the great hall, the parking facility and the grounds until long-term decisions are made on the development of the terminal.

Commissioner Parker commented that she understands the hesitation to get into a long term commitment but there may be things they can do now to keep it a viable, active place during the interim period. She also said it may be important to hire a company with expertise in retail and this type of specialty facility to give them proper advice and guidance.

Jolly Mangine responded that Welsh Companies does have the expertise and are probably one of the largest operators in the Twin Cities.

Commissioner Parker asked how they chose Welsh.

Jolly Mangine responded that they already have a relationship established with Welsh through its management of the West building. The management of the Depot will be short-term while plans for the use of the Depot are being developed.

Chair McDonough commented that they have begun conversations with Amtrak about moving their operations, as well as Greyhound and Jefferson Lines, into the facility. Meeting these demands and developing the master plan are the number one priorities.

Commissioner Parker added that the expectation was that it was going to be a multi-purpose facility and not just a transit hub, and they should therefore involve someone who can truly help them manage and accomplish this.

Commissioner Rettman indicated she would like a copy of the due diligence report and believes there are immediate, physical issues concerning the building that need to be dealt with. She also believes the Requests for Proposals (RFP) Process is important in involving outside companies. However, with the short timeline it is logical to have Welsh do the business but to include them in an RFP process.

Commissioner Reinhardt agreed with the other Commissioners that it needs to be seen as a multi-purpose hub and that they should take the 9 month transition period to carefully plan it. She does not want to relate Welsh's February 2010 contract expiration with the Union Depot transition RFP process. They need to look at the vision for the Union Depot separately. She asked if today's vote included the final Leventhal Property.

Jolly Mangine confirmed that they are also voting on the Leventhal Property. He clarified that the Leventhal Property is a done deal and they are ready to relocate. He asked David MacMillan, Assistant County Attorney, if they would need to return to the Board to authorize the Chair to execute the Leventhal Agreement.

David MacMillan replied that they would because it is a separate document.

Commissioner Reinhardt suggested that they add a resolve clause in line 60 of the resolution stating that the Leventhal Purchase Agreement will come back to the Board for approval upon its final completion.

The amendment was accepted as friendly.

Commissioner Rettman asked for an explanation of actual budget document and when it would be available.

Jolly Mangine explained the approach was to figure out what revenues would be coming into the building between June 4th and December 31st. The two larger pieces are the parking ramp and Christo's Restaurant. There is a legacy agreement with Alright Parking to manage the parking ramp, which expires in September 2009. Therefore, they took the smaller amount of revenue that would achieve from June 4 to around September 11 under the existing agreement, and the plan would be to RFP for new management services from September 2009 for a term to be determined. He said Christo's Restaurant has a lease that is good until May 11, 2010 and within that agreement, they have the ability to extend it for 5 more years. He and Tim Mayasich spoke to the owner of Christo's and they do have a viable concern since they have good business and want to stay. RCRRA will net about \$100,000 from the restaurant rent. He said the building will cash flow, even this year with the reduced parking, after that it will be in the black by a considerable amount. This has been detailed in the budget outline attachment.

Commissioner Rettman then asked how the back taxes will be handled.

Jolly Mangine responded that Mr. Frenz will need to pay all past due taxes and penalties at the time of closing, June 4, 2009. He said the RCRRA would assume the taxes that are payable through December 31, 2009. In 2010 the RCRRA portions of the building will go tax exempt under Minnesota statutes.

David MacMillan clarified that the tax money is wired to the title company and they will not disperse funds to Mr. Frenz until everything has been paid. Our title insurance policy will be granted to the RCRRA free of any tax encumbrances.

Jolly Mangine added that all the past due utilities will also be paid off.

Commissioner Carter asked if the renovation requirements of the building as a historic site have been handled or if they are still investigating this.

Jolly Mangine said they are still investigating this. He said much of the building has not been restored, especially the great hall, and they will work closely with the State Historic Preservation Office (SHPO) on the renovations. They have already investigated a few issues such as the lighting in the great hall, which currently is not energy efficient. They will also need to pay attention to the exterior of the building, which is not handicap accessible and the slope from 4th street to the front doors will need to be fixed. He said they will assure that SHPO works with them from the beginning of the renovation.

Tim Mayasich thanked Jolly Mangine, Property Management, the County Attorney's Office and the RCRRA Staff for their excellent, collaborative work on this complicated transaction. He said the Union Depot purchase is the right decision from staff's perspective. He said they will continue with the due diligence for the retail aspect of the building and that they will carefully examine how it should be properly managed.

Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, Bennett, McDonough – 6. Nays – 0. Motion accepted. (R09-18)

WHEREAS, On March 17, 2009, in an executive session, the Ramsey County Regional Railroad Authority authorized staff to negotiate ownership of the Union Depot (Head House) ("Union Depot"); and

WHEREAS, On April 14, 2009, in an executive session, staff presented the Ramsey County Regional Railroad Authority with the results of the negotiations and requested direction; and

WHEREAS, On April 21, 2009, the Ramsey County Regional Railroad Authority authorized and approved the draft purchase agreements for the purchase of the Union Depot and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, has included the following terms into the final purchase agreement with JAS Apartments, Inc. (Frenz's Property):

- Purchase price of \$7.7 million.
- Down payment of \$50,000 due at the time of execution of the Purchase Agreement.
- County will pay up to \$15,000 of Frenz's closing costs including attorney fees.
- County will pay up \$35,000 to relocate the exhaust fan from Christos Restaurant.
- Due diligence period from the date of execution of the Purchase Agreement through June 3, 2009.
- Closing date before June 4, 2009; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, are working on the final purchase agreement for Leventhal's property with the following terms (the final purchase agreement will be distributed upon completion):

- Purchase price of \$400,000.
- Down payment of \$25,000 due at the time of execution of the Purchase Agreement.

- Due diligence period of 30 days commencing the date of execution of the Purchase Agreement.
- Closing date after closing of Frenz's property; and

WHEREAS, Staff has prepared and presented a Due Diligence Report, total purchase costs, and operating budget for the Union Depot; Now, Therefore, Be It

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and approves the final purchase agreements for the purchase of the Union Depot for the total purchase cost of \$8,201,491; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby accepts and approves the due diligence report; and estimated total purchase costs and 2009 operating budget for the Union Depot; and Be It Further

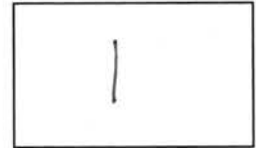
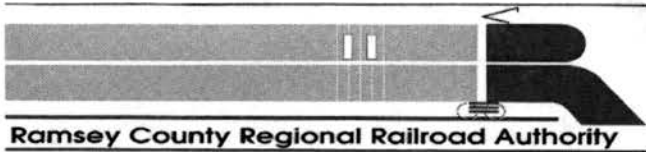
RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the Chair to sign and deliver the final Agreements for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office, Regional Railroad Authority and Property Management; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority staff will return to the Board for final approval of the final Purchase Agreement for Leventhal's Property; and Be it Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreements for Sale, Purchase of Property, and due diligence reports subject to prior approval by the County Attorney's Office; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County Manager to make all necessary payments, budget adjustments, and execute an agreement with Welsh Companies, LLC for building management services for the operation of the Union Depot.

There being no further business, Chair McDonough declared the meeting adjourned at 9:35 AM.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 6/9/2009

Regional Railroad Authority Meeting Date: _____

SUBJECT Ratification of Report of Contracts

EXECUTIVE SUMMARY

A report of contracts approved by the County Manager for the period of January 1, 2009 through March 31, 2009 is attached.

ACTION REQUESTED

Approve the report of contracts for the period of January 1, 2009 through March 31, 2009.

SUBJECT: Ratification of Report of Contracts

ATTACHMENTS:

1. Proposed resolution
2. Quarterly reports of contracts for the period of January 1, 2009 through March 31, 2009

PREVIOUS ACTION:

COUNTY MANAGER'S COMMENTS:

The RCRRA requires ratification of the report of contracts approved by the County Manager citing Administrative Code 4.3.50A, which requires a report of all contracts approved by the County Manager.

SUBJECT: Ratification of Report of Contracts

Regional Railroad Authority – Authorized Signature	Date
	6-4-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Ratification of Report of Contracts

Draft Resolution

1 WHEREAS, Administrative Code 4.3.50A requires a report of all contracts approved by the
2 County Manager; Now, Therefore, Be It
3

4 RESOLVED, The Ramsey County Regional Railroad Authority hereby approves the
5 Quarterly Report of Contracts for the period of January 1, 2009 through March 31, 2009.

REPORT OF CONTRACTS PURSUANT TO RESOLUTION R98-34

QUARTER ENDING March 31, 2009

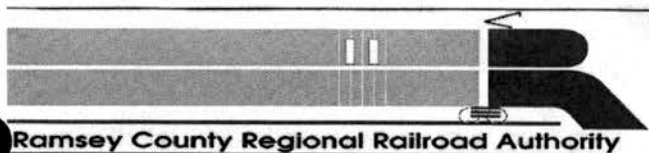
CONTRACT NUMBER	CONTRACTOR'S NAME	DATE SIGNED	AMOUNT OF CONTRACT	PURPOSE OF CONTRACT
RRA 829	CB Richard Ellis, Inc.	12-Jan-09	\$8,000.00	Provide an appraisal of the Union Depot located at 214 E 4th Street, St Paul, MN. The appraisal report will include physical identification and inspection of both the interior and exterior property. Services will be completed within 31 days of contract execution.

57

5/28/2009

Prepared by Budgeting and Accounting - CL

Page 1 of 1



2

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 06/09/09

Regional Railroad Authority Meeting Date: _____

SUBJECT Approve Second Amendment to the Professional Services Agreement with AECOM USA, Inc. for Union Depot Project Coordination Services

EXECUTIVE SUMMARY

In May 2006, the Ramsey County Regional Railroad Authority (RCRRA) approved a \$1,128,240 agreement with AECOM USA, Inc. (formerly DMJM Harris) for Union Depot Project coordination services. As background, the expertise involved is program management, environmental and regulatory compliance, knowledge of funding and financing strategies, and knowledge of freight railroads, transit providers and Amtrak. The contract expired on May 16, 2008. The first amendment to the agreement extended the contract period to June 30, 2009 at no additional cost. Staff is proposing to extend the contract through June 30, 2010 at no additional cost.

ACTION REQUESTED

- 1) Authorize the County Manager to approve and execute the contract amendment with AECOM USA, Inc. to extend the contract termination date to June 30, 2010, at no increase in contract cost.

SUBJECT: Approve Second Amendment to the Professional Services Agreement with AECOM USA, Inc. for Union Depot Project Coordination Services

ATTACHMENTS:

- 1) Draft Resolution
- 2) Second Amendment between AECOM USA, Inc. and the Ramsey County Regional Railroad Authority

PREVIOUS ACTION:

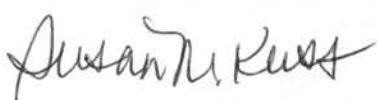
An agreement with AECOM USA, Inc. is currently in place and expires June 30, 2009.

COUNTY MANAGER'S COMMENTS:

The Ramsey County Regional Railroad Authority is the entity that approves Rail Authority contracts, contract extensions, and contract amendments.

SUBJECT: Approve Second Amendment to the Professional Services Agreement with AECOM USA, Inc. for Union Depot Project Coordination Services

Regional Railroad Authority – Authorized Signature	Date
	6-4-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

**SUBJECT: Approve Second Amendment to the Professional Services Agreement with
AECOM USA, Inc. for Union Depot Project Coordination Services**

DRAFT RESOLUTION

1 WHEREAS, Ramsey County Regional Railroad Authority is developing the Union Depot
2 concourse as a multi-modal transit hub; and
3

4 WHEREAS, Ramsey County Regional Railroad Authority entered into a contract with
5 AECOM USA, Inc. to provide project coordination services for the Union Depot; Now, Therefore,
6 Be It
7

8 RESOLVED, That Ramsey County Regional Railroad Authority authorizes the County
9 Manager to approve and execute the contract amendment with AECOM USA, Inc. to extend the
10 contract termination date to June 30, 2010, at no increase in contract cost.

**SECOND AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT
DATED MAY 16, 2006
BETWEEN
THE RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY
AND
AECOM USA, Inc (formerly known as DMJM Harris)**

The Ramsey County Regional Railroad Authority and AECOM USA, Inc (formerly known as DMJM Harris) hereby agree that the Agreement (the "Agreement") entered into by and between the parties on or about May 16, 2006, and the First Amendment dated May 8, 2008 are hereby amended as follows:

Section 3 (Time). Contractor shall complete all services by and this contract shall terminate on June 30, 2010.

This amendment is effective upon execution of the amendment by, and delivery of a copy of the executed amendment to, both parties.

Except as amended by this amendment, the terms and condition of the Agreement remain in full force and effect.

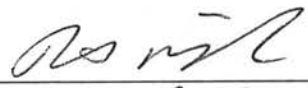
IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives on the dates indicated below.

**RAMSEY COUNTY REGIONAL
RAILROAD AUTHORITY**

AECOM USA, Inc

Julie Kleinschmidt, County Manager

Date: _____

By: 
Print Name: ROBERT PINGHERA
Tax ID/SSN: 13-5511947
Date: 6-2-09

Timothy A. Mayasich, Director

Date: 6/4/09

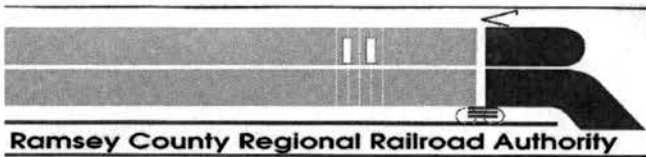
APPROVED AS TO FORM:

David F. MacMillan
Assistant County Attorney

FUNDS ARE AVAILABLE: _____
Account Nos.: _____

Budgeting & Accounting

5



3

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 6/09/09

Regional Railroad Authority Meeting Date: _____

SUBJECT: Approve Second Amendment to the Professional Services Agreement with URS Corporation for Rush Line Corridor Alternatives Analysis Study

EXECUTIVE SUMMARY

In June 2007, the Ramsey County Regional Railroad Authority (RCRRA) approved a not to exceed \$450,000 agreement with URS Corporation to conduct an alternatives analysis study for the Rush Line Corridor. The contract expires June 30, 2009. Staff is proposing to extend the contract through December 31, 2009, at no additional cost.

ACTION REQUESTED

1) The Ramsey County Regional Railroad Authority authorizes the County Manager to approve and execute the contract amendment with URS Corporation to extend the contract termination date to December 31, 2009, at no increase in contract cost.

1

SUBJECT: Approve Second Amendment to the Professional Services Agreement with URS Corporation for Rush Line Corridor Alternatives Analysis Study

ATTACHMENTS:

- 1) Draft Resolution
- 2) Proposed amendment

PREVIOUS ACTION:

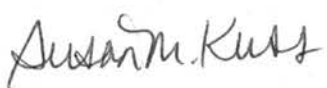
An agreement with URS Corporation is currently in place and expires June 30, 2009.

COUNTY MANAGER'S COMMENTS:

The Ramsey County Regional Railroad Authority is the entity that approves Rail Authority contracts, contract extensions, and contract amendments.

SUBJECT: Approve Second Amendment to the Professional Services Agreement with URS Corporation for Rush Line Corridor Alternatives Analysis Study

Regional Railroad Authority – Authorized Signature	Date
	6-1-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Approve Second Amendment to the Professional Services Agreement with URS Corporation for Rush Line Corridor Alternatives Analysis Study

DRAFT RESOLUTION

1 WHEREAS, Ramsey County Regional Railroad Authority is a member of the Rush Line
2 Corridor Task Force, and is administering the contract for the Rush Line Corridor Alternatives
3 Analysis study; and

4
5 WHEREAS, Ramsey County Regional Railroad Authority entered into a contract with
6 URS Corporation to conduct an alternatives analysis study for the Rush Line Corridor; Now,
7 Therefore, Be It

8
9 RESOLVED, Ramsey County Regional Railroad Authority hereby authorizes the
10 Ramsey County Manager to approve and execute the contract amendment with URS
11 Corporation to extend the contract termination date to December 31, 2009, at no increase in
12 contract cost.

**SECOND AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT
DATED JUNE 7, 2007
BETWEEN
THE RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY
AND
URS CORPORATION**

The Ramsey County Regional Railroad Authority and URS Corporation hereby agree that the Agreement (the "Agreement") entered into by and between the parties on or about June 7, 2007, is hereby amended as follows:

Section 2 of the Agreement is amended to read:

Section 2 (Time). Contractor shall complete all services by and this contract shall terminate on December 31, 2009.

This amendment is effective upon execution of the amendment by, and delivery of a copy of the executed amendment to, both parties.

Except as amended by this amendment, the terms and condition of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this amendment to be executed by their duly authorized representatives on the dates indicated below.

**RAMSEY COUNTY
REGIONAL RAILROAD AUTHORITY**

Julie Kleinschmidt, County Manager

Date: _____

Timothy A. Mayasich, Director

URS CORPORATION

By: _____
Print Name: Dan Meyers
Tax ID/SSN: 94-1716908
Date: 5-14-2009

Approval recommended:

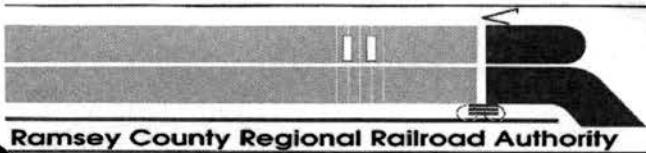
APPROVED AS TO FORM:

David MacMillan, County Attorney

FUNDS ARE AVAILABLE: _____
Account No. _____

Budgeting & Accounting

5



4

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 06/09/09

Regional Railroad Authority Meeting Date: _____

SUBJECT: Approve Third Amendment to the Professional Services Agreement with URS Corporation for Union Depot Conceptual Engineering and Environmental Assessment Services

EXECUTIVE SUMMARY

In May 2007, the Ramsey County Regional Railroad Authority (RCRRA) approved a \$1,272,210 agreement with URS Corporation to conduct conceptual engineering and develop an environmental assessment for the Union Depot project. The purpose of the environmental assessment is to meet federal and state regulations and to identify any impacts. The First Amendment to the contract extended the contract in May 2008 to December 31, 2008 at no additional cost. The Second Amendment to the contract extended the contract in December 2008 to June 30, 2009. The work under this contract is anticipated to be complete by Fall 2009. Staff is proposing to extend the contract through October 31, 2009 at no additional cost.

ACTION REQUESTED

- 1) Authorize the County Manager to approve and execute the contract amendment with URS Corporation to extend the contract termination date to October 31, 2009 at no increase in contract cost.

1

SUBJECT: Approve Third Amendment to the Professional Services Agreement with URS Corporation for Union Depot Conceptual Engineering and Environmental Assessment Services

ATTACHMENTS:

- 1) Proposed Resolution
- 2) Amendment 3

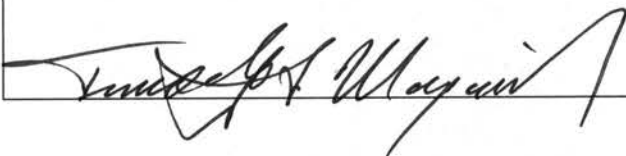
PREVIOUS ACTION:

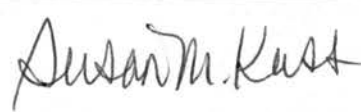
The second amendment to the agreement with URS Corporation expires on June 30, 2009.

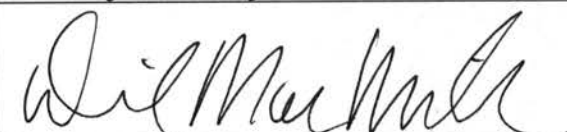
COUNTY MANAGER'S COMMENTS:

The Ramsey County Regional Railroad Authority is the entity that approves Rail Authority contracts, contract extensions, and contract amendments.

SUBJECT: Approve Third Amendment to the Professional Services Agreement with URS Corporation for Union Depot Conceptual Engineering and Environmental Assessment Services

Regional Railroad Authority – Authorized Signature	Date
	6-4-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Approve Third Amendment to the Professional Services Agreement with URS Corporation for Union Depot Conceptual Engineering and Environmental Assessment Services

Draft Resolution

1 WHEREAS, Ramsey County Regional Railroad Authority is developing the Union
2 Depot concourse as a multi-modal transit hub; and

3
4 WHEREAS, Ramsey County Regional Railroad Authority entered into a contract with URS
5 Corporation to provide conceptual engineering and environmental assessment services for the
6 Union Depot; Now, Therefore, Be It

7
8 RESOLVED, That Ramsey County Regional Railroad Authority authorizes the County
9 Manager to approve and execute the contact amendment with URS Corporation to extend the
10 contract termination date to October 31, 2009 at no increase in contract cost.

AMENDMENT 3

This agreement is an amendment to the contract between URS Corporation ("Contractor") and Ramsey County Regional Railroad Authority ("RRA") dated May 1, 2007, Amendment 1 dated May 20, 2008, and Amendment 2 dated December 16, 2008.

The parties agree that sections of the Agreement shall be amended as follows:

Section III. Time

The contract shall be in effect through October 31, 2009 at no additional cost.

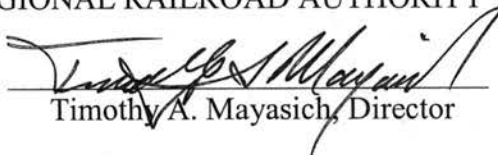
Except as herein agreed, all other terms and conditions of the Agreement shall remain in full force and effect.

RAMSEY COUNTY
REGIONAL RAILROAD AUTHORITY

By: _____
Julie Kleinschmidt, County Manager

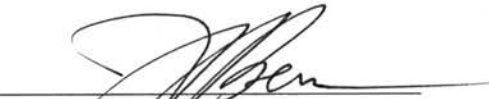
Dated: _____

RAMSEY COUNTY
REGIONAL RAILROAD AUTHORITY

By: 
Timothy A. Mayasich, Director

Dated: 6-11-09

URS Corporation

By: 

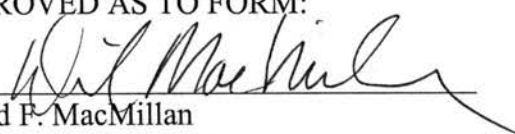
Dated: 6/2/09

Approval recommended:

INSURANCE APPROVED:

Risk Management

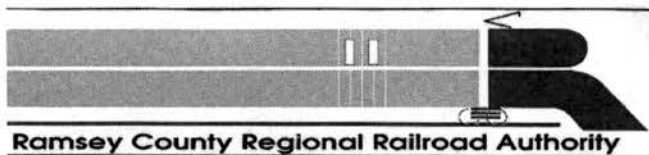
APPROVED AS TO FORM:


David F. MacMillan
Assistant County Attorney

FUNDS ARE AVAILABLE: _____
Account No. _____

Budgeting & Accounting

5



5

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 6/09/09

Regional Railroad Authority Meeting Date: _____

SUBJECT Approve Fourth Amendment to the Professional Services Agreement with Lockridge Grindal Nauen P.L.L.P. for Federal Lobbying Services

EXECUTIVE SUMMARY

On June 24, 2003, the Ramsey County Regional Railroad Authority (RCRRA) approved a three-year contract with Lockridge Grindal Nauen P.L.L.P. for federal lobbying services. It was amended June 27, 2006, June 5, 2007, and June 28, 2008 to provide one-year extensions. The contract expires June 24, 2009. Staff is proposing to extend the contract through December 31, 2009, at a cost not to exceed \$16,309.68.

ACTION REQUESTED

1) The Ramsey County Regional Railroad Authority authorizes the County Manager to approve and execute the contract amendment with Lockridge Grindal Nauen P.L.L.P. through December 31, 2009, at a cost not to exceed \$16,309.68.

1

SUBJECT: Approve Fourth Amendment to the Professional Services Agreement with Lockridge Grindal Nauen P.L.L.P. for Federal Lobbying Services

ATTACHMENTS:

- 1) Draft Resolution
- 2) Copy of Amendment 4

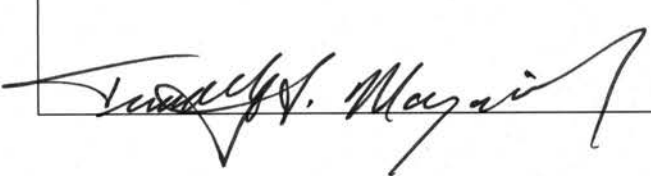
PREVIOUS ACTION:

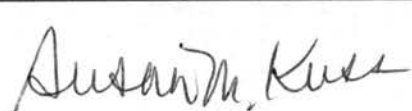
An agreement with Lockridge Grindal Nauen P.L.L.P. is currently in place and expires June 30, 2009.

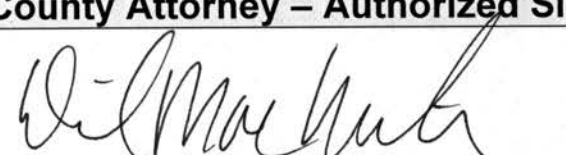
COUNTY MANAGER'S COMMENTS:

The Ramsey County Regional Railroad Authority is the entity that approves Rail Authority contracts, contract extensions, and contract amendments.

SUBJECT: Approve Fourth Amendment to the Professional Services Agreement with Lockridge Grindal Nauen P.L.L.P. for Federal Lobbying Services

Regional Railroad Authority – Authorized Signature	Date
	6-4-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

**SUBJECT: Approve Fourth Amendment to the Professional Services Agreement with
Lockridge Grindal Nauen P.L.L.P. for Federal Lobbying Services**

DRAFT RESOLUTION

1 WHEREAS, The Ramsey County Regional Railroad Authority has contracted with Lockridge
2 Grindal Nauen P.L.L.P. for federal lobbying services; and

3
4 WHEREAS, The contract with Lockridge Grindal Nauen P.L.L.P. expires on June 30, 2009;
5 Now, Therefore Be It

6
7 RESOLVED, That the Ramsey County Regional Railroad Authority authorizes the County
8 Manager to approve and execute the contract amendment with Lockridge Grindal Nauen P.L.L.P.
9 through December 31, 2009, at a cost not to exceed \$16,309.68.

AMENDMENT 4

This agreement is an amendment to the contract between Lockridge Grindal Nauen P.L.L.P. and Ramsey County Regional Railroad Authority (RRA) dated June 24, 2003, Amendment 1 dated June 27, 2006, Amendment 2 dated June 5, 2007, and Amendment 3 dated June 24, 2008.

The parties agree that sections of the Agreement shall be amended as follows:

Section II. Payment

CONTRACTOR shall receive the sum of \$16,309.68 in monthly installments of \$2,718.28 for the period of July 1, 2009 to December 31, 2009 to be paid within 30 days of receipt by the RRA of a monthly claim form from the contractor.

Section III Term

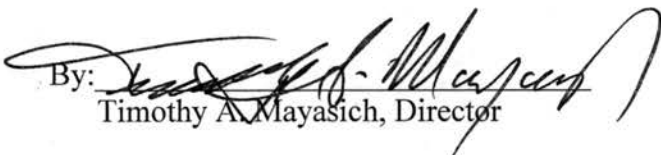
16. This agreement shall be in force and effect from July 1, 2009 through December 31, 2009, or until earlier terminated by the parties hereto pursuant to this Agreement, or extended by the same parties for up to an additional two years.

Except as herein agreed, all other terms and conditions of the Agreement shall remain in full force and effect.

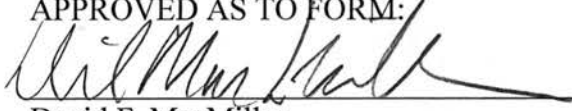
RAMSEY COUNTY
REGIONAL RAILROAD AUTHORITY

By: _____
Julie Kleinschmidt, County Manager

Dated: _____

By: 
Timothy A. Mayasich, Director

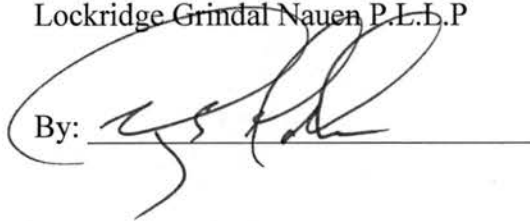
APPROVED AS TO FORM:


David F. MacMillan
Assistant County Attorney

FUNDS ARE AVAILABLE: _____
Account No. _____

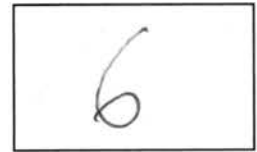
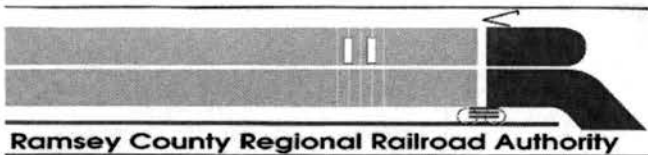
Budgeting & Accounting

Lockridge Grindal Nauen P.L.L.P.

By: 

Dated: June 2, 2009

5



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date:

Regional Railroad Authority Meeting Date: 6/09/09

SUBJECT: Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

EXECUTIVE SUMMARY

On June 5, 2007 the RCRRA approved (R07-25) \$17.0 million of funding for preliminary engineering for the Central Corridor and entered into a Cooperative Funding Agreement for Preliminary Engineering. Since the Cooperative Funding Agreement was executed, additional State, Federal, and Counties Transit Improvement Board funding has been approved for use on the Central Corridor Project. As of May 2009, no RCRRA funding has been required for the preliminary engineering phase.

As the Central Corridor progresses toward completion of the environmental documentation and approval to enter the Final Design phase, additional funding approvals are needed. Funding for the Final Design phase includes completion of the design, specifications, and procurement documents; right of way acquisition; public utility relocation; traffic mitigation efforts; consultant services; staff costs; and project office expenses. The final design phase is estimated to start in October 2009 and last until approximately September 2010. The cost for this phase is currently estimated to be \$112 million. The projected RCRRA share for preliminary engineering and final design activities totals \$18,303,438.

(The Executive Summary is continued on the following page)

ACTION REQUESTED

1. Approve the Cooperative Funding Agreement For Preliminary Engineering and Final Design for the Central Corridor for up to \$18,303,438 and authorizes the County Manager to execute the Agreement.
2. Approve advanced utility work in downtown Saint Paul upon receipt of a Letter of No Predjudice from the Federal Transit Administration.

SUBJECT: Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

EXECUTIVE SUMMARY (Cont.)

In order to meet the construction schedule for a 2014 opening and avoid additional inflationary costs, it is desirable to begin 4th Street utility relocation efforts in Downtown St Paul this fall. The Federal Transit Administration allows for local funding to be used for construction elements prior to the execution of a Full Funding Grant Agreement (FFGA) if these elements are covered under a Letter of No Prejudice (LONP). The 4th Street advanced utility relocation is estimated to cost \$25 million with local funding provided by the Counties Transit Improvement Board (\$15 million), State of Minnesota (\$5 million), Ramsey County Regional Railroad Authority (\$3.5 million), and Hennepin County Regional Railroad Authority (\$1.5 million). This advanced local funding will be credited against the entire project funding once the FFGA is executed. These funds are included in the estimated costs for Final Design. If the project is not completed, there will not be Federal reimbursement for the Federal share of these funds.

The anticipated funding split for the entire project remains:

- 50% Federal
- 30% Counties Transit Improvement Board
- 10% State
- 7% Ramsey County Regional Railroad Authority
- 3% Hennepin County Regional Railroad Authority

SUBJECT: Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

ATTACHMENTS:

Draft resolution
Proposed Cooperative Funding Agreement For Preliminary Engineering and Final Design

PREVIOUS ACTIONS:

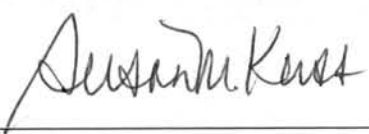
R07-25, dated June 5, 2007 authorizing up to \$17 million for Central Corridor preliminary engineering
R08-29, dated July 22, 2008 authorizing RCRRA funding of 7% of the capital cost of the Central Corridor light rail project, up to \$63 million.

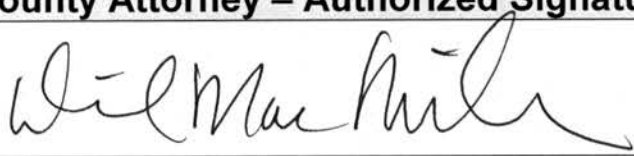
COUNTY MANAGER'S COMMENTS:

Approval of this funding agreement is important in order to maintain the Central Corridor budget and schedule.

SUBJECT: Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

Regional Railroad Authority – Authorized Signature	Date
	6-9-09

Budgeting & Accounting – Authorized Signature	Date
	6/3/09

County Attorney – Authorized Signature	Date
	6/3/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Approve Cooperative Funding Agreement for Preliminary Engineering and Final Design and 4th Street utility Work under a Letter of No Prejudice for Central Corridor

Draft Resolution

1 WHEREAS, The Ramsey County Regional Railroad Authority has worked to advance the Central
2 Corridor and other transit projects that benefit the citizens of Ramsey County; and
3

4 WHEREAS, The Metropolitan Council is responsible for delivering the project according to Federal
5 Transit Administration (FTA) and local project partners' requirements; and
6

7 WHEREAS, The Metropolitan Council will be conducting preliminary engineering and final design for
8 the project in 2009 and 2010; and
9

10 WHEREAS, A draft agreement to conduct preliminary engineering and final design activities has
11 been negotiated between staff from Ramsey County Regional Railroad Authority, Hennepin County
12 Regional Railroad Authority and the Metropolitan Council ; and
13

14 WHEREAS, The Ramsey County Regional Railroad Authority contribution for these activities will not
15 exceed \$18,303,438; and
16

17 WHEREAS, Some of these activities will include relocation of utilities on 4th Street in downtown
18 Saint Paul upon issuance of a Letter of No Predjudice by the Federal Transit Administration.
19

20 NOW, THEREFORE, BE IT RESOLVED, That the Ramsey County Regional Railroad Authority
21 hereby approves the Cooperative Funding Agreement For Preliminary Engineering and Final Design for the
22 Central Corridor for up to \$18,303,438 and authorizes the County Manager to execute the Agreement; and
23

24 BE IT FURTHER RESOLVED, That the Ramsey County Regional Railroad Authority approves
25 advanced utility work in downtown Saint Paul upon receipt of a Letter of No Predjudice from the Federal
26 Transit Administration.
27

Reference Numbers

CCLRT Project:

Metropolitan Council:

RCRRA Contract No.

HCRRA Contract No.

A090619

PROJECT: Central Corridor Light Rail Transit Project

NAME: Cooperative Funding Agreement For Preliminary Engineering and Final Design

PARTIES:

- Metropolitan Council
- Ramsey County Regional Railroad Authority
- Hennepin County Regional Railroad Authority

THIS AGREEMENT ("Agreement") is entered into between the Metropolitan Council, a public corporation and political subdivision of the State of Minnesota ("Met Council"), the Ramsey County Regional Railroad Authority, a political subdivision of the State of Minnesota ("RCRRA"), and the Hennepin County Regional Railroad Authority, a political subdivision of the State of Minnesota ("HCRRA").

WHEREAS:

1. The Met Council, RCRRA, and HCRRA are committed jointly to the design and construction of a light rail transit ("LRT") line running between downtown Minneapolis and downtown St. Paul and connecting to and integrated with the existing Hiawatha LRT line in Minneapolis. Design and construction of the new light rail transit line is referred to in this Agreement as the "Central Corridor LRT Project" or the "Project."
2. Pursuant to Minnesota Laws 2008, Chapter 287, Article 1, Sections 100 to 108 and through designation by the Governor in Executive Order 08-13, the Met Council is

responsible for planning, designing, acquiring, constructing, and equipping the Central Corridor Light Rail Transit Line.

3. The parties anticipate and the Project requires contribution of funds from the United States Government through grants from the Federal Transit Administration ("FTA") and other federal sources and programs for design and construction of the Project. Such grants from the FTA and other federal sources will require funding participation from non-federal sources, including state and local governmental units. The federal share of the entire Project (i.e., design and construction) is anticipated ultimately to be approximately 50% of Project costs.
4. The Met Council has received certain appropriations from the State of Minnesota to fund design and construction of the Project. The parties anticipate additional future appropriations from the State of Minnesota for design and construction of the Project. The state share of the entire Project (i.e., design and construction) is anticipated to ultimately be approximately 10% of Project costs.
5. With respect to non-federal, non-state sources of funds for the Project, the Met Council, RCRRA, and HCRRA entered into a Memorandum of Understanding on or about August 29, 2006 whereby RCRRA and HCRRA each committed to make certain expenditures for design and construction of the Project. Such commitment was based on the contribution proportions of RCRRA and HCRRA as set forth in Minnesota Laws 2006, Chapter 258, Section 17(4).
6. On or about July 11, 2007, the parties entered into a Cooperative Funding Agreement for Preliminary Engineering in order to partially implement the said Memorandum of

Understanding with respect to funding for Preliminary Engineering for the Project. The Cooperative Funding Agreement did not address funding for Final Design of the Project.

7. During the 2008 legislative session, the Counties Transit Improvement Board ("CTIB") was authorized pursuant to Minnesota Statutes, section 297A.992, and later established by action of five metropolitan counties. Establishment of CTIB and other legislation passed during the 2008 Legislative Session has required a modification of the funding commitments for the non-federal, non-state sources of funds for the Project, including addition of the Counties Transit Improvement Board as a new funding partner. Non-federal, non-state funding commitments for the Project have now been made as follows:
 - a. Pursuant to Resolution No. R08-29, adopted on July 22, 2008, the Ramsey County Regional Railroad Authority committed to providing seven percent of the capital costs for the Central Corridor Light Rail Transit Project, not to exceed \$63 million.
 - b. Pursuant to Resolution No. 08-HCRR-41, adopted on August 12, 2008, the Hennepin County Regional Railroad Authority committed to providing three percent of the capital costs of the Central Corridor Light Rail Transit Project, not to exceed \$27 million.
 - c. Pursuant to Resolution No. 17-CTIB-2008, adopted on August 20, 2008, the Counties Transit Improvement Board committed to providing 30% of the capital cost of the Central Corridor Light Rail Transit Project, not to exceed \$300 million.
8. The Project has received approval from the FTA to proceed with Preliminary Engineering ("PE") for the Project. The Project anticipates receiving FTA approval to enter Final Design (FD) for the Project in the fourth quarter of 2009 and anticipates entering into a Full Funding Grant Agreement for the Project in 2010. It is estimated that

PE will cost approximately \$63 million for consultant and staff costs. It is estimated that FD will cost approximately \$112 million for right-of-way acquisition, public utility relocation, consultant services, staff costs, and Project office costs.

9. Since the FTA has not as of the date of this agreement committed sufficient funds to cover the ultimate anticipated 50% federal share for the Project, RCRRA and HCRRA recognize that funding of Preliminary Engineering and Final Design for the Project may require RCRRA, HCRRA, CTIB, and the State of Minnesota, at their risk, to contribute a proportion of funds for Preliminary Engineering and Final Design greater than their percentage commitments described above. This greater contribution for Preliminary Engineering and Final Design is in anticipation that the contributions of RCRRA, HCRRA, and CTIB for the entire Project will ultimately approximate the percentage commitments described above if and when federal funds for the entire Project are committed and the Project is completed. The parties acknowledge and agree that some state and federal funds and/or contributions are also available for Preliminary Engineering and Final Design but not currently in sufficient amounts to cover the projected costs of PE and FD.
10. Met Council, RCRRA and HCRRA wish to enter into this Agreement to prescribe and delineate their respective roles and obligations in connection with the PE and FD phases of the Project and to provide a mechanism for the transfer of funds from RCRRA and HCRRA to Met Council for partial funding of the PE and FD phases of the Project.
11. Transfer of funds from CTIB to Met Council in partial funding of the PE and FD phases of the Project, pursuant to CTIB's commitment described above, will be addressed by a separate grant agreement between CTIB and the Met Council.

12. This revised Agreement is intended to replace the Memorandum of Understanding entered into between the parties on or about August 29, 2006 and the Cooperative Funding Agreement for Preliminary Engineering entered into between the parties on or about July 11, 2007.

NOW, THEREFORE, in consideration of the mutual promises, agreements, benefits, and obligations in this Agreement, it is agreed between the parties as follows:

ARTICLE I

PRELIMINARY ENGINEERING AND FINAL DESIGN PROCESS

- A. **Federal Grant Funding.** In consultation with RCRRA and HCRRA (individually referred to as an "RRA" and together referred to as the "RRAs" in this Agreement), Met Council shall negotiate and enter into all necessary grant agreements with the FTA or other federal funding agencies necessary to receive federal funding for PE and FD.
- B. **Consultant Contracts.** In consultation with the RRAs, Met Council shall prepare, negotiate, and enter into one or more contracts with a consultant or consultants for PE and FD ("PE and FD Contracts"). The PE and FD Contracts must include provisions substantially as follows:
1. The consultants must prepare periodic reports, at the Met Council's request, that provide information on the consultants' progress in carrying out PE and FD. As such elements are determined and subject to the scope of work for the respective consultants, the reports shall include with respect to PE:
 - the specific alignment proposed for the LRT route;
 - termini of the LRT route;

- general dimensions, elevation and alignment of the route and crossings;
- location of tracks at, below, or above grade;
- station locations;
- projected costs of final design and construction of the line; and
- the total budget for the Project;

and with respect to FD the reports shall include:

- Capital Cost Estimate
- Project Schedule
- Financial Plan
- Final Environmental Impact Statement
- Ridership Forecast
- Operation Plan
- Contracting Plan for Construction

2. The reports shall also report on any changes to such information since the date of the last report.
3. Subject to the scope of work for the respective consultants, the contracts shall provide that the consultants shall consult with RCRRA and HCRRA as to the matters stated in section I(B)(1) above for the purposes of review and comment by the RRAs.

C. Providing of Information to RRAs. During the PE and FD phases of the Project, the Met Council shall provide RCRRA and HCRRA with the following information:

1. monthly Project reports identifying all activities for which Project funds have been expended including, without limitation, consulting contract fees and the staff direct and overhead costs for all parties;
2. upon request of the RRAs, copies of invoices and supporting documentation submitted by the consultants;
3. upon request of the RRAs, copies of the progress reports of the consultants prepared as provided for in section I(B)(1) above (to be provided at Project Advisory Committee meetings);
4. upon request of the RRAs, copies of state and federal funding documentation; and
5. upon the request of the RRAs, documentation showing each party's proportionate time charged to the Project for staff and/or support

D. Scope of Work for PE and FEIS.

1. The parties agree that the scope of work for Preliminary Engineering and the Final Environmental Impact Statement ("FEIS") will include for consideration and analysis those features identified in the draft environmental impact statement (DEIS) which has been prepared in connection with the Central Corridor, and shall include an analysis to "30% complete" plans and specifications for the following three options for connecting to the St. Paul Union Depot from 4th Street and Cedar Street: (1) an alignment following 4th Street east and terminating on 4th Street with a station in front of the Union Depot Head House; (2) an alignment following 4th Street east to Wacouta Street with a station in front of the Union Depot Head House, thence heading south on Wacouta Street, across Kellogg Boulevard (which may necessitate a

bridge), and entering the east side of the Union Depot concourse, and (3) an alignment following 4th Street east to Broadway Street with a station in front of the Union Depot Head House, thence heading south on Broadway Street, across Kellogg Boulevard, and entering the east side of the Union Depot concourse.

2. In addition to the options specified in the previous paragraph, the parties agree that the scope of work for Preliminary Engineering and the Final Environmental Impact Statement ("FEIS") shall also include an analysis to "30% complete" plans and specifications for an additional alignment option following 4th Street east to Wacouta Street with a station in front of the Union Depot Head House, thence continuing east on 4th Street east to Broadway Street into the former Diamond Products building space located at the corner of 4th Street and Broadway Street.
3. The 30% analysis for each option shall include an estimate of operating costs. The Met Council shall select one of the above options as the "preferred" Union Depot alignment, which shall, subject to FTA approval, be analyzed to 70% complete plans and specifications and included in the FEIS. Nothing in this section shall be deemed to predetermine the scope of final design for the Project.

E. PE and FEIS Requirements. The parties agree as follows:

1. that the obligation of the RRAs to contribute funds for PE activities, as stated in Article II of this Agreement, is contingent upon inclusion in the scope of work for PE the consideration and analysis of the design elements described in section I(D);

2. that PE will be carried out in a manner that will allow evaluation of design alternatives for final design and construction;
 3. that the Final Environmental Impact Statement developed pursuant to PE will address the design elements referenced in section I(D); and that FD will be carried out using the Project scope identified in the FEIS
- F. **Scope of Work for FD.** The parties agree that the scope of work for Final Design will include completion of design and specification work in preparation for construction for the scope identified in the FEIS. The scope of work for Final Design will also include right-of-way acquisition, public utility relocation, traffic mitigation, consultant services, staff costs and Project office costs.
- G. **Termination of PE and FD.** The Met Council agrees that it shall not terminate PE or FD prior to completion without consultation between the parties to this Agreement. However, in any case termination of PE and FD prior to completion shall not relieve the RRAs of the obligation to fund their share of costs, as specified in this Agreement, incurred by the Met Council for PE and FD prior to such termination.

ARTICLE II

REGIONAL RAILROAD AUTHORITIES RESPONSIBILITY FOR PRELIMINARY ENGINEERING AND FINAL DESIGN COSTS

- A. **RCRRA and HCRRA Responsibility for PE and FD Costs.** RCRRA and HCRRA shall be responsible for providing funds in accordance with the Project's PE and FD cash flow projections and the procedures in this Article II. Payment shall be made at the times and according to the procedures described in this Article II.
- B. **Preliminary Engineering and Final Design Budget.**

1. The Met Council shall prepare, and periodically update, a budget for Preliminary Engineering and Final Design for the Project. The budget shall include all costs anticipated to be expended for PE including, without limitation, staffing costs and costs for consultant and other necessary contracts. Upon FTA approval to enter FD, the budget shall also include, without limitation, all costs anticipated to be expended for FD, including right-of-way acquisition, public utility relocation, traffic mitigation, consultant services, staff costs, and Project office costs.
2. The budget shall also include, without limitation, all costs for work authorized under FTA-approved Letter(s) of No Prejudice (LONP). However, the Council shall consult with the RRAs regarding work proposed to be carried out under any such LONP. No such work shall be carried out by the Council without the written approval of both the RRAs.

C. Cash Flow Projections.

1. Exhibit A is the Central Corridor Light Rail Transit Project cash flow projection for PE and FD, as of the date of this agreement. The cash flow projection outlines estimated expenditures for PE and FD during certain time periods and total expenditures for each of the two phases of the Project. The exhibit also designates the percentages to be paid by each funding partner for the PE and FD stages of the Project including the percentages to be paid by RCRRA and HCRRA.
2. On a quarterly basis, the Met Council shall prepare and provide to the RRAs updated cash flow projections. The cash flow projection will show the monthly amounts anticipated to be needed to fund the calendar year's expenditures for PE

and FD contractual work and for staff support; the mix of funding contributions based upon funding source for PE and FD contractual work and staff support; and the anticipated timing of receipt and payment of these funds. The cash flow projection may include a contingency amount to address expenditures at a greater than anticipated rate during the calendar year. If either RRA believes that the budget contingency amount is excessive it shall notify the Council and the Council shall consult with the RRAs with regard to the contingency amount.

3. The allocation of funding contributions to RCRRRA and HCRRRA shall approximate the percentages of funding set forth in Exhibit A. However, RCRRRA and HCRRRA recognize that the Council may adjust such percentages in order to meet the availability of federal grant funds, state appropriations, and CTIB grant funds, or when adjustments are necessary because certain costs may not be eligible for funding from a particular source.
4. If, prior to the effective date of this agreement, the state of Minnesota has disallowed the eligibility of MNDOT staff salaries or other Project costs based on state law, the state constitution, OR Minnesota Management and Budget administrative policy, then the Met Council may budget such amounts as contingency funds and to pay for such costs using contingency funds collected from RRAs, provided that the costs are eligible under applicable Federal Transit Administration guidelines. Any such payments shall be included in and a part of the RRAs' share of Project Costs.

D. Payment of RRAs Project Contributions.

1. **Commencement of RRAs Payment.** Payment for the RRAs share of Project costs will commence July 1, 2009. The Met Council shall provide each of the RRAs with an invoice for each of the RRAs respective share of Project costs based on the Council's cash flow projections as described in paragraph C above. Within thirty calendar days after receipt of an invoice from the Met Council, the RRAs shall remit to the Met Council the amount stated in the invoice. However, if either RRA is unable to make such payment within thirty calendar days because payment authorization is required by its governing board and its regularly scheduled meeting does not occur within such thirty calendar day period, then payment may be remitted within 45 calendar days after receipt of the invoice.
2. **Cash Flow Methodology**
 - a. It is the intent of the parties that the Met Council shall not be required to finance any payments to be made by the RRAs pursuant to this section. Each RRA shall be liable for its attributed share of any interest charges, costs, or other penalties duly incurred by the Met Council or the Project as a result of delays in RRA invoiced payments by such RRA under this section, except for invoiced items which are disputed by the RRAs and such dispute is subject to the provisions of Article VII C of this Agreement.
 - b. It is the intent of the parties that all funding sources, including federal grant funds, CTIB grants, state appropriations, and RRA contributions, will contribute funds as set forth in the Project's cash flow projections.

- c. It is the intent of the parties that available federally appropriated funds be expended with the required local match prior to RRA funds being expended. Each year in which the Met Council receives a federal appropriation, CTIB, state and RRA shares will be reduced in proportion to their original funding forecast for a given calendar year per Exhibit A. As new federal funds become available for the Project, cash flow projections (Article II, Section C) will be updated to reflect proportional cash draw reductions for each funding partner.
- d. If at any time available federal grant funds or CTIB grant funds have been fully expended prior to the completion of FD, it is the intent of the parties that Project costs will be paid on a 50:50 basis by available state appropriations and contributions by the RRAs until additional federal and/or CTIB funding is available. In such case, the contribution of the RRAs will be split between them in the following percentages:
- RCRRA - 70%
 - HCRRA - 30%
- e. At the completion of PE and FD, currently projected to be not later than September 30, 2010, and after payment of all costs for PE and FD are completed, if there remains funds received from the RRAs but not yet expended, and interest attributable to the RRA funds deposited with the Met Council (excess funds), then the RRAs shall determine whether the excess funds shall be applied to the construction phase of the Project or be refunded to the RRAs. At the completion of PE and FD, if the amounts

paid by the RRAs, plus accumulated interest, is less than their respective shares for the actual costs of PE and FD, the Met Council shall invoice the RRAs for such underpayment in accordance with the provisions of this agreement and the RRAs shall reimburse the Met Council all funds owed.

- E. **Staff Support.** With the advance and continuing written approval of the Met Council, either RRA may provide staff support from among its own employees to assist in Project activities. The value of any such staff support (including overhead and fringe benefits) at the RRA's standard rates shall constitute an in-kind contribution of the RRA and shall be considered part of the RRA's financial contribution for the Project. As applicable, RCRRA and/or HCRRA shall provide documentation to the Met Council of approved staff support rendered for the Project in accordance with this section including, without limitation, applicable standard staff rates. The Met Council may request that the applicable RRA provide additional documentation to demonstrate the appropriateness and amount of staff support rendered. Within thirty days after receipt of all such documentation, the Met Council shall, after review and acceptance of the documentation, confirm in writing to the applicable RRA the approved amount that has been credited to the Project and applied to that RRA's contribution for the Project.

ARTICLE III

ULTIMATE PROJECT CONTRIBUTION; NO MET COUNCIL OBLIGATION

- A. The parties recognize and acknowledge that the percentage contribution of RCRRA and HCRRA for Preliminary Engineering and Final Design under this Agreement, as based on funds currently available to the Met Council from state, CTIB and federal Project fund

- sources, may exceed the percentage commitments as set forth in RCRRRA Board Resolution No. R08-29 and HCRRA Board Resolution No. 08-HCRRA-41.
- B. The parties further recognize and acknowledge that their current intent is that the ultimate percentage contribution of RCRRRA and HCRRA for the entire Project (i.e., design and construction) shall approximate the proportional commitment as set forth in. RCRRRA Board Resolution No. R08-29 and HCRRA Board Resolution No. 08-HCRRA-41.
- C. Finally, the parties further recognize and acknowledge that the parties' current intent is that the share of costs for RCRRRA and HCRRA for later phases of the Project after Preliminary Engineering and Final Design shall be adjusted in such a manner that the ultimate percentage contribution of RCRRRA and HCRRA for the entire Project shall approximate the contribution percentages as set forth in RCRRRA Board Resolution No. R08-29 and HCRRA Board Resolution No. 08-HCRRA-41.
- D. However, RCRRRA and HCRRA expressly recognize and acknowledge that the intentions set forth in paragraphs A, B, and C above are dependent on the availability of funds for the Project from State of Minnesota appropriations, annual CTIB grant funds, and federal grant funds and are subject to modifications as expressed in future state legislation and/or agreements among the parties.
- E. Further, RCRRRA and HCRRA expressly recognize and acknowledge that their expenditures for PE and FD under this Agreement are solely and completely at their risk and that completion of the Project beyond PE and FD is dependent on the later commitment of state appropriations, annual CTIB grant funds, and federal grant funds, a portion of which are not currently committed. Nothing in this Agreement shall be

construed or deemed to create any obligation or commitment on the part of the Met Council to either:

- make any expenditures on its own part for the Project except as may be available from state, CTIB and federal Project fund sources, or
- reimburse RCRRA or HCRRA for any Project expenditures

ARTICLE IV

CONSULTATION AND INFORMATION

During the PE and FD phases of the Project, the RRAs shall have the opportunity to participate as follows:

1. The Met Council shall periodically consult with the RRAs during negotiations between Met Council and the FTA as to any agreements with the FTA related to the Project and the Met Council shall provide a reasonable opportunity to the RRAs to review and comment on any proposed agreements related to PE and FD between Met Council and the FTA, provided that such review and comment shall not in any manner delay the Met Council's timeline for entering into such agreements.
2. Upon request, the Met Council will allow representatives of the RRAs to participate in the procurement review and selection process for consultants to be used in carrying out PE and FD activities.
3. Upon request, and subject to the requirements of the Minnesota Government Data Practices Act and other applicable law and the requirements of Met Council procurement policies and procedures, the Met Council shall make available to the RRAs, for their inspection, copies of all bids or responses to Requests for

Proposals ("RFP") for PE and FD contracts obtained by the Met Council and the actual contracts entered into pursuant to such RFP processes.

4. The Met Council shall provide the RRAs with a reasonable opportunity to participate in Project change committees.

ARTICLE V

FINANCIAL MANAGEMENT

- A. **Met Council Federal Grantee.** Met Council is the Grantee of the federal funds for the Project. As Grantee, Met Council will conduct negotiations with FTA and will submit all components of any grant application for the Project to the FTA. RCRRA and HCRRA recognize and acknowledge that as Grantee, Met Council is required, irrespective of the participation of other parties, to ensure that the Project is carried out in compliance with federal requirements and regulations and the RRAs shall cooperate with the Met Council in carrying out that obligation.
- B. **Reporting Requirements.** Met Council will have the sole responsibility for provision of Project expenditure reporting information to the FTA and the parties. Met Council, the State Auditor, the Legislative Auditor and the MnDOT Auditor will have responsibility for audit functions.

ARTICLE VI

SALE AND DISPOSITION OF REAL ESTATE

Sale or Transfer of Interest in Real Property

Met Council may not sell or otherwise transfer any interest in the real property, including but not limited to the fee title interest, easement right, air-rights or any other interest in the real property

for purposes other than for use for the Central Corridor LRT, unless all of the following conditions have been complied with fully.

- A. Met Council determines by official action that the interest in the real property is surplus and it is no longer usable or needed for the Central Corridor LRT;
- B. Met Council provides RRA's with written notice of any proposed sale at least sixty (60) days prior to the date of sale;
- C. The proposed sale or transfer of the interest in the real property is made as authorized by law; and
- D. The sale is for fair market value unless RRA's give their prior written approval for a sale for less than fair market value, or unless some other value is required by law. RRA's approval shall not be unreasonably withheld. A sale for at least 95% of the appraised value shall be deemed fair market value.

Sale or transfer by Met Council of the real property to the State of Minnesota or any of its agencies, or any political subdivision of the State of Minnesota, when such transfer is required by Federal or State statute, or as part of the Central Corridor LRT, shall not be deemed a sale or transfer of the real property under this section, provided, however, that the real property and transferee shall be subject to the terms of this Agreement.

Disposition Alternatives and Proceeds of a Sale of Real property

If Met Council has fully complied with the conditions outlined in the section above, the Met Council may elect any of the following disposition alternatives:

- A. Sell and reimburse the RRA. Met Council competitively markets and sells the interest in real property in conformance with the section above, and Met Council pays RRA's their proportionate share. "RRA's proportionate share" shall be RRA's project share multiplied by the net proceeds of the sale. Net proceeds are defined as the sale price less reasonable sale costs.
- B. Sale and offset. Met Council sells the interest in real property in conformance with the section above and Met Council applies the net proceeds from the sale to the cost of replacement property for the Central Corridor LRT. The acquisition and purchase price of such replacement property must be approved by the RRA's. Such replacement property shall be subject to the provisions of this Agreement, including but not limited to property, shall be subject to the provisions of this Article. If the purchase price of the replacement property is less than the sale price of the real property, excess funds shall be distributed in accordance with this section. The terms of this Article shall apply to the replacement property, and Met Council shall file an amended declaration substituting the replacement property to be covered as restricted property.
- C. Retain title with buyout. Compensate RRA's by multiplying RRA's project share by the fair market value for the interest in real property. Upon such payment to RRA's, RRA's shall release the interest in real property from the provisions of this Agreement, including but not limited to, the declaration required by the sections above.

ARTICLE VII

GENERAL PROVISIONS

- A. **Consultation.** In all cases where the Met Council agrees to consult with the RRAs under this Agreement, the Met Council retains the ultimate decision-making authority with respect to the matter at issue. However, this provision shall not apply to consultation under Article II.B.2 regarding work proposed to be carried out under a Letter of No Prejudice. In such case, and in accordance with such Article II.B.2, no work under a Letter of No Prejudice shall be carried out by the Council without the written approval of both RRAs.
- B. **RCRRA and HCRRA Board Resolutions.** Except with respect to provisions regarding the percentage contribution of RCRRA and HCRRA for Preliminary Engineering and Final Design, nothing in this Agreement is intended or shall be construed to amend, modify, or supersede the commitments set forth in RCRRA Board Resolution No. R08-29 and HCRRA Board Resolution No. 08-HCRRA-41 regarding the ultimate commitment on the part of RCRRA and HCRRA to make certain expenditures for the Project as a whole or to carry out other obligations.
- C. **Conflict Resolution.** If a dispute should arise between or among the parties to this Agreement with respect to this Agreement or any of its provisions, the parties involved agree to attempt to settle such dispute through the use of a mediator mutually acceptable to the parties involved in the dispute prior to initiation of the dispute resolution procedure in Minnesota Statutes, Section 473.3994, Subdivision 13 (regarding the parties' respective authority or responsibility); or prior to the initiation of any legal action on the part of any of the parties involved in the dispute with respect to this Agreement, any of its provisions and/or its enforcement. Each Party shall pay its own costs and expenses for

preparation and presentation of its case to the mediator. The fees and costs charged by the mediator shall be shared equally among those parties participating in such mediation.

- D. **Liability.** Each party agrees that it will be responsible for its own acts and the acts of its officers and employees and any liability resulting therefrom to the extent authorized by law and shall not be responsible for the acts of the other parties or any liability resulting therefrom. Each party acknowledges and agrees that it is insured or self-insured consistent with the limits established in Minnesota state statute. Each party agrees to promptly notify all parties if it becomes aware of any Project related claim(s), or facts giving rise to such claims.
- E. **Employees.** All employees of each party and all persons engaged by each party in the performance of any work or services required or provided for in this Agreement to be performed by each party shall not be considered employees of any other party and any and all claims that may or might arise under the Worker's Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of said employees while so engaged, and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged, on any of the work or services provided to be rendered in this Agreement, shall in no way be the obligation or responsibility of any other party.
- F. **Successors and Assigns.** Each party binds itself, its partners, successors, assigns and legal representatives to the other parties for all covenants, agreements and obligations contained in this Agreement.

- G. **Applicable Provisions of Law.** The parties agree to comply with applicable provisions of federal and state laws and regulations, which shall be considered a part of this Agreement as though fully set forth in this Agreement.
- H. **Entire Agreement.** It is understood and agreed that the entire Agreement between the parties is contained in this Agreement and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter of this Agreement. All items referred to in this Agreement are incorporated and are deemed to be part of this Agreement. However, nothing in this section shall be deemed to affect commitments of RCRRRA and HCRRA as set forth in RCRRRA Board Resolution No. R08-29 and HCRRA Board Resolution No. 08-HCRRA-41.
- I. **Amendment.** Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties to this Agreement.
- J. **Severability.** The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to the parties.
- K. **Non-Waiver.** One or more waivers by any party of any provision, term, condition or covenant of this Agreement shall not be construed by the other parties as a waiver of a subsequent breach of the same by the other parties.
- L. **Non-Waiver of Municipal Immunity and Limits.** Nothing in this Agreement shall be construed to waive the immunities or liability limits provided in Minnesota Statutes,

Chapter 466, or other applicable state or federal law. The provisions of Minnesota Statutes, section 471.59, subdivision 1a, specifically apply to this Agreement.

- M. **Governing Law.** This Agreement is entered into under the laws of the State of Minnesota and shall be interpreted in accordance with those laws.
- N. **Notices.** Any notice or demand, which may or must be given or made by a party to this Agreement, under the terms of this Agreement or any law or regulation, shall be in writing and shall be sent certified mail or delivered in person to the other parties as follows:

MET COUNCIL
Regional Administrator
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

HCRRA
Executive Director of HCRRA
A2300 Hennepin County
Government Center
300 South 6th Street
Minneapolis, MN 55487

RCRRA
Director of RCRRA
6560 Ramsey County Government
Center West
50 West Kellogg Boulevard
St. Paul, MN 55102

Or to such other person or address as a party may designate in writing to the other parties.

- O. **Contract Administration.** In order to coordinate the activities of the parties so as to accomplish the purposes of this Agreement, the following individuals, or their designees or successors shall manage this Agreement on behalf of the parties.

MET COUNCIL
Regional Administrator
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101

HCRRA
Executive Director of HCRRA
A2300 Hennepin County
Government Center
300 South 6th Street

Minneapolis, MN 55487

RCRRA

Director of RCRRA
6560 Ramsey County Government
Center West
50 West Kellogg Boulevard
St. Paul, MN 55102

Any party may designate an alternative person (along with his/her address) to act for that party for the purposes of this section by written notice to the other parties.

- P. **Availability of Records.** The parties agree that each party to this Agreement, the Legislative Auditor, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, or records, which are pertinent to the accounting practices and procedures of the other parties to this Agreement and involve transactions relating to this Agreement for a minimum of six years from the expiration of this Agreement.
- Q. **Data Privacy.** The parties agree to abide by all applicable state and federal laws and regulations with respect to confidential information concerning individuals and/or data including, but not limited to, information made non-public by such laws or regulations. Consistent with applicable law, no party shall acquire any right, title or interest in another party's data. Each party acknowledges and agrees that data must be used, controlled and safeguarded in compliance with the terms of this Agreement including but not limited to the provisions of the Minnesota Government Data Practices Act and other applicable law.
- R. **Effective Date and Termination; Cancellation.** This Agreement shall take effect upon execution by all of the parties to this Agreement and shall remain in effect until completion of PE and FD or until December 31, 2010, which ever occurs earlier, unless

extended by mutual agreement of the parties. This Agreement shall also terminate at such earlier time by agreement of the parties, if it becomes apparent that adequate state and federal funding will not be available for the Project. The parties to this Agreement may mutually agree to cancel this Agreement prior to its termination. Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement shall survive.

- S. **Effect of Termination or Cancellation.** Notwithstanding termination or cancellation of this Agreement as provided above, the RRAs shall remain liable to the Met Council for their respective shares of the costs of PE incurred prior to the effective date of termination or cancellation.
- T. **Termination of Earlier Agreements.** Upon the effective date of this Agreement as provided for in paragraph R above, both the Memorandum of Understanding entered into between the parties on or about August 29, 2006 and the Cooperative Funding Agreement for Preliminary Engineering entered into between the parties on or about July 11, 2007 shall terminate and be of no further force and effect. However, notwithstanding such terminations, any approved agreements for staff support entered into pursuant to Article II.E of the terminated Cooperative Funding Agreement for Preliminary Engineering shall continue in effect and shall be governed by the terms of this Agreement.
- U. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

IN TESTIMONY WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their respective duly authorized representatives on the dates indicated.

METROPOLITAN COUNCIL

By: _____
Thomas Weaver
Regional Administrator

Date: _____

Approved as to form:

Metropolitan Council
Office of General Counsel

IN TESTIMONY WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their respective duly authorized representatives on the dates indicated.

**RAMSEY COUNTY REGIONAL
RAILROAD AUTHORITY**

By: _____

Its: Chair

Date: _____

Reviewed by County Attorney's Office

Date: _____

IN TESTIMONY WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their respective duly authorized representatives on the dates indicated.

**HENNEPIN COUNTY REGIONAL
RAILROAD AUTHORITY**

By: _____

Its: _____

Date: _____

By: _____

Its: Deputy/Executive Director

ATTEST:

Clerk of its Board

Reviewed by County Attorney's Office

Date: _____

LIST OF EXHIBITS

Exhibit	Description
A	Cash Flow

Exhibit A

May 28, 2009

Preliminary Engineering Cash Flow (December 2006 - September 2009)

Funding Source	Dec 2006	Jan 2007	Feb 2007	Mar 2007	April 2007	May 2007	June 2007	July 2007	Aug 2007	Sept 2007	Oct 2007	Nov 2007	Dec 2007	Total 2007
Federal 5309 New Starts	0	16,183	29,830	69,188	39,748	61,027	51,474	167,381	165,445	180,385	794,688	1,046,422	3,364,419	5,935,990
State	0	4,046	7,175	13,439	9,908	14,353	15,289	54,721	133,850	70,556	584,901	352,191	843,667	2,084,095
CTIB	0	0	0	0	0	0	0	0	0	0	0	0	0	0
RCRRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HCRRA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	20,229	36,805	72,627	49,654	65,380	66,763	212,102	299,295	230,941	1,379,689	1,378,613	4,208,086	8,020,085

Funding Source	Jan 2008	Feb 2008	Mar 2008	April 2008	May 2008	June 2008	July 2008	Aug 2008	Sept 2008	Oct 2008	Nov 2008	Dec 2008	Total 2008
Federal 5309 New Starts	72,996	72,996	491,011	21,931	71,768	1,134,937	500,610	1,727,529	1,785,167	2,287,811	2,311,928	1,228,787	11,707,468
State	253,687	253,687	1,270,605	3,207,967	651,211	2,114,814	125,152	389,488	446,292	508,909	577,985	6,016,963	15,816,757
CTIB	0	0	0	0	0	0	0	0	0	0	0	0	0
RCRRA	0	0	0	4,316	0	0	0	10,290	0	9,834	0	100,650	124,980
HCRRA	0	0	0	1,850	0	0	0	4,410	0	4,214	0	43,093	53,567
Total	326,683	326,683	1,761,616	3,236,063	722,979	3,249,751	625,762	2,131,718	2,231,459	2,810,765	2,889,911	7,389,394	27,702,782

Funding Source	Jan 2009	Feb 2009	Mar 2009	April 2009	May 2009	June 2009	July 2009	Aug 2009	Sept 2009	PE Total	PE % Share
Federal 5309 New Starts	0	0	0	0	0	0	2,210,996	2,971,301	3,243,011	26,068,768	41.1%
State	132,018	132,018	1,304,107	1,304,107	893,142	870,958	1,065,865	1,458,268	1,582,708	26,875,041	42.1%
CTIB	0	0	1,304,107	1,304,107	893,142	870,958	551,083	740,588	808,308	6,472,280	10.2%
RCRRA	0	0	0	0	625,199	609,871	411,350	552,802	603,353	2,927,365	4.6%
HCRRA	0	0	0	0	267,942	261,287	178,294	236,916	268,581	1,254,587	2.0%
Total	132,018	132,018	2,608,214	2,608,214	2,679,424	2,612,875	4,436,688	5,960,871	6,506,960	63,398,049	100.0%

Final Design Cash Flow (October 2009 - September 2010)

Funding Source	Oct 2009	Nov 2009	Dec 2009	Jan 2010	Feb 2010	Mar 2010	April 2010	May 2010	June 2010	July 2010	Aug 2010	Sept 2010	FD Total	FD % Share
Federal 5309 New Starts	4,067,848	3,779,322	3,959,290	0	0	0	0	0	0	0	0	0	11,806,459	10.5%
State	1,987,804	1,856,105	9,722,450	884,848	839,880	1,147,085	1,428,079	1,597,559	1,368,568	1,696,375	2,543,974	3,111,317	28,195,023	25.0%
CTIB	1,013,896	941,983	4,934,196	2,854,544	2,519,579	3,441,266	4,287,236	4,792,578	4,105,703	5,089,125	7,831,923	9,333,952	60,746,071	45.0%
RCRRA	766,810	703,131	3,683,067	619,394	587,802	802,960	1,000,355	1,118,291	957,997	1,187,463	1,780,782	2,177,922	15,378,074	13.6%
HCRRA	324,346	301,342	1,578,456	285,454	251,958	344,128	428,724	479,268	410,570	508,913	763,192	933,395	6,589,744	5.8%
Total	8,160,704	7,581,883	23,877,469	4,424,240	4,199,298	5,735,426	7,146,394	7,987,796	6,842,838	8,481,875	12,719,872	16,555,586	112,713,371	100.0%

Summary Cash Flow

Funding Source	Total 2007 & Dec 2006	Total 2008	Total 2009	Total 2010 (Jan - Sep)	Total Dec 2006 - Sept 2010	Total % Share
Federal 5309 New Starts	5,935,990	11,707,468	20,231,787	0	37,875,225	21.5%
State	2,084,095	15,816,757	22,350,548	14,818,665	54,870,064	31.2%
CTIB	0	0	13,362,368	43,855,995	57,218,361	32.5%
RCRRA	0	124,980	7,945,383	10,233,066	18,303,436	10.4%
HCRRA	0	53,567	3,405,164	4,365,600	7,844,331	4.5%
Total	8,020,085	27,702,782	67,285,228	73,083,325	176,111,420	100.0%

Assumptions Used: Expenditures

Dec 2006 - Feb 2009 Actuals taken from updated CCPO spreadsheet

March 2009 - Sept 2010 Forecast Expenditures taken from Funding Scenario

Assumptions Used: Funding Sources

March - April 2009: 1/2 split between State and CTIB

May - June 2009: 1/3 split between State, CTIB and RRA's (70/30)

July - Nov 2009: 1/2 split between FTA and Local (local split State (50%), CTIB (25%), RRA's (25%) (70/30))

Dec 2009: \$20M in remaining FTA's allocated, split State (50%), CTIB (25%), RRA's (25%) (70/30)

Jan - Sept 2010: No FTA funds, CTIB 60%, State 20%, RRA's 20% (70/30)

36

CCLRT

April 29, 2009

Final Design Cash Flow (January 2010 - December 2010)

Funding Source	Jan 2010	Feb 2010	Mar 2010	April 2010	May 2010	June 2010	July 2010	Aug 2010	Sept 2010	Oct 2010	Nov 2010	Dec 2010	2010 Total	2010 Share
Federal 5309 New Starts	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0%
State	884,848	839,880	1,147,085	1,429,079	1,597,559	1,368,588	1,698,375	2,543,974	3,111,317	4,286,418	1,801,535	0	20,508,819	20.0%
CTIB	2,654,544	2,519,579	3,441,258	4,287,238	4,792,878	4,106,703	5,089,125	7,631,923	9,333,952	8,501,630	9,138,052	4,628,798	68,028,475	64.4%
RCRRA	619,394	587,902	802,980	1,000,355	1,118,281	957,987	1,187,463	1,780,782	2,177,822	986,934	0	0	11,200,000	10.9%
HCRRA	265,454	251,958	344,126	428,724	478,268	410,570	508,913	763,192	933,395	414,400	0	0	4,800,000	4.7%
Total	4,424,240	4,199,298	5,735,426	7,145,394	7,987,796	6,842,838	8,481,875	12,719,872	15,556,566	14,169,383	10,740,587	4,628,798	102,533,094	100.0%

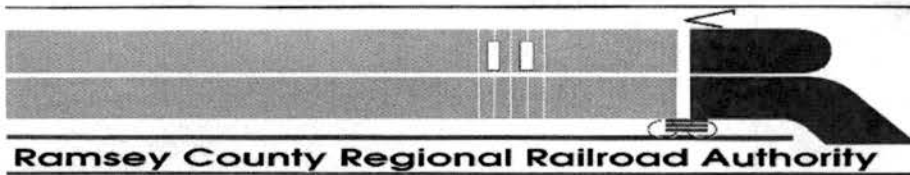
Assumptions Used: Expenditures

March 2009 - Dec 2010 Forecast Expenditures taken from Funding Scenario

Assumptions Used: Funding Sources

Jan - Dec 2010: FTA 0%, CTIB 60%, State 20%, RRA's 20% (14% RCRRA, 6% HCRRA)

Until commitment is exhausted



6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760 / FAX (651) 266-2761

REGIONAL RAILROAD AUTHORITY MEETING

AGENDA

June 2, 2009

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the June 2, 2009 Board Meeting is presented for approval.

MINUTES of the April 28, 2009 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission
2. Purchase Union Depot Building (Head House), St. Paul, Minnesota

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

April 28, 2009

The Ramsey County Regional Railroad Authority met in the Council Chambers, Third Floor Court House, with the following members present: Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Absent: Bennett - 1.

Chair McDonough called the meeting to order at 10:05 AM

AGENDA

Commissioner Carter moved approval of the Agenda of the April 28, 2009 Board Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted.

MINUTES

Commissioner Reinhardt moved approval of the Minutes from the April 21, 2009 Board Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted.

1. Minnesota High Speed Rail Corridor Joint Powers Agreement

Commissioner Parker moved approval of the following resolution, seconded by Commissioner Rettman.

Chair McDonough commented that an official High Speed Rail meeting would take place in late May or early June, once the partners have signed the agreement.

Commissioner Carter asked for clarification that the eight counties and twenty two cities involved in the Joint Powers Agreement will have signed the Agreement by the end of May.

Chair McDonough said yes, by the end of May or early June. He commented that they are excited about moving forward with this because they now have support at the federal level and some support at the state level.

Chair McDonough also updated the board on his CTIB trip to Washington, DC. He said they met with all 9 members of Minnesota's congressional delegation and the conversations were good. They highlighted the Central Corridor as their priority and getting it into a full funding grant agreement. Chair McDonough said they received positive response.

Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Nays – 0. Motion accepted. (R09-16)

WHEREAS, The Midwest Regional Rail Initiative has identified a High Speed Rail corridor between the Twin Cities and Chicago; and

WHEREAS, The identified Corridor enters Minnesota at La Crescent and travels northwest along the Canadian Pacific Railway track to the Union Depot in downtown St. Paul; and

WHEREAS, Federal funds have been authorized for the development of high speed rail corridors throughout the country; and

WHEREAS, To be eligible for federal funds a corridor must be identified in a State Rail Plan; and

WHEREAS, The Minnesota Department of Transportation is currently undertaking the development of a state rail plan that includes high speed rail corridors; and

WHEREAS, With the signing of the American Recovery and Reinvestment (ARRA) on February 13, 2009, \$8 billion was appropriated for the implementation of High Speed Rail; and

WHEREAS, ARRA waives the requirement that High Speed Rail corridors be part of a state rail plan allowing for their immediate implementation; and

WHEREAS, Future federal funding will require that High Speed Rail corridors be identified in a State Rail Plan; and

WHEREAS, Local government involvement in corridor development and implementation is important to the successful development of a State Rail Plan;

WHEREAS, Local government involvement in corridor development and implementation is important to the successful development of High Speed Rail in Minnesota; and

WHEREAS, the development of a joint powers agreement is the best way to ensure local government involvement; and

WHEREAS, A joint powers agreement has been drafted allowing the Ramsey, Washington, Dakota, Goodhue, Wabasha, Winona, Houston, and Olmsted County Regional Railroad Authorities in partnership with Corridor cities to cooperatively advocate for and analyze the feasibility, environmental impacts, engineering, construction and operation of an integrated rail transportation system in the Corridor along with the associated land use and development impacts; Now, Therefore, Be It

RESOLVED, The Ramsey County Regional Railroad Authority approves the Minnesota High Speed Rail Corridor Joint Powers Agreement, and Be It Further

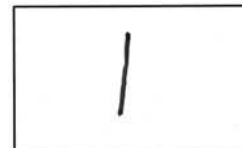
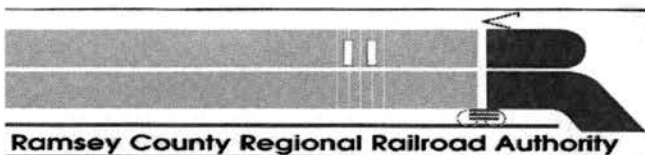
RESOLVED, The Ramsey County Regional Railroad Authority authorizes the Chair and Chief Clerk to execute the Minnesota High Speed Rail Corridor Joint Powers Agreement, and Be It Further

RESOLVED, The Ramsey County Regional Railroad Authority hereby appoints Commissioner Jim McDonough as the Minnesota High Speed Rail Commission representative for 2009.

Commissioner Rettman asked about updates on the public hearings.

Tim Mayasich, Director of Ramsey County Regional Railroad Authority, explained that the public hearings for the environmental work on Central Corridor have not yet been scheduled. They are still waiting for the state to approve the environmental document. They will move forward once it has been approved.

There being no further business, Chair McDonough declared the meeting adjourned at 10:13 AM.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 6/2/2009

Regional Railroad Authority Meeting Date:

SUBJECT: Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission

EXECUTIVE SUMMARY

On April 28, 2009, the Regional Railroad Authority Board adopted the Minnesota High Speed Rail Joint Powers Agreement. This Agreement covers the 126 mile Minnesota High Speed Rail Corridor that begins at the Union Depot in downtown St. Paul and travels southeast along Canadian Pacific Railway track to La Crescent prior to entering Wisconsin and continuing to Chicago. The Board's approval of the Agreement was followed on May 5th by the Washington County Regional Railroad Authority's approval allowing the Minnesota High Speed Rail Corridor Commission ("Commission") to be created. The Commission has the purpose of bringing together the regional railroad authorities and cities to cooperatively advocate for and analyze the feasibility, environmental impacts, engineering, construction and operation of an integrated rail transportation system in the Corridor.

In approving the Agreement, the Regional Railroad Authority also appointed Commissioner McDonough as its representative to the Commission. However, the Board did not appoint an alternate to serve in those instances when Commissioner McDonough is unable to attend Commission meetings. The appointment of an alternate is important to ensure that the Regional Railroad Authority's interests are communicated to the Commission. The attached resolution addresses this need by appointing Commissioner Rettman as the Regional Railroad Authority's alternate to the Minnesota High Speed Rail Corridor Commission.

ACTION REQUESTED

Appoint Commissioner Janice Rettman as the RCRRA's alternate representative to the Minnesota High Speed Rail Commission.

SUBJECT: Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission

ATTACHMENTS:

Draft Resolution Approving the Minnesota High Speed Rail Joint Powers Agreement and appointing the RCRRA's member to the Minnesota High Speed Rail Commission

PREVIOUS ACTION:

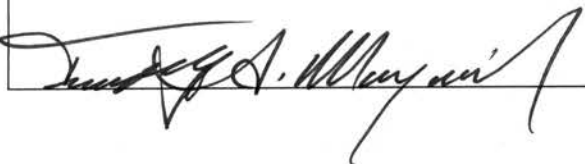
On November 18, 2008, staff was authorized to enter into discussions with staff from the Regional Railroad Authorities and cities along the Minnesota High Speed Rail Corridor develop a joint powers agreement.

On January 20, 2009, staff provided the Regional Railroad Authority with an overview of the Minnesota High Speed Rail Joint Powers Agreement. Staff was directed to bring the Final Joint Powers Agreement back to the Regional Railroad Authority for approval.

On April 28, 2009, staff provided the Regional Railroad Authority with the final Minnesota High Speed Rail Joint Powers Agreement. The Board approved the Agreement and the appointment of Commissioner Jim McDonough as its representative to the Minnesota High Speed Rail Commission.

COUNTY MANAGER'S COMMENTS:

SUBJECT: Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission

Regional Railroad Authority – Authorized Signature	Date
	5/27/09

Budgeting & Accounting – Authorized Signature	Date
	5/29/09

County Attorney – Authorized Signature	Date
	5/27/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Appointment of Commissioner Rettman as the alternate to the Minnesota High Speed Rail Corridor Commission

Draft Resolution

1 WHEREAS, The Minnesota High Speed Rail Corridor begins at the Union Depot in downtown St.
2 Paul and travels southeast along the Canadian Pacific Railway track to La Crescent prior to entering
3 Wisconsin and continuing on to Chicago; and
4

5 WHEREAS, The Ramsey County Regional Railroad Authority adopted the Minnesota High Speed
6 Rail Corridor Joint Powers Agreement ("Agreement") on April 28, 2009; and
7

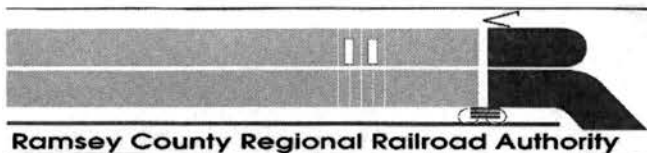
8 WHEREAS, The Agreement has since been adopted by Washington and Dakota, County
9 Regional Railroad Authorities; and
10

11 WHEREAS, The adoption of the Agreement has created the Minnesota High Speed Rail Corridor
12 Commission ("Commission") which allows its member parties to cooperatively advocate for and analyze
13 the feasibility, environmental impacts, engineering, construction and operation of an integrated rail
14 transportation system in the Corridor along with the associated land use and development impacts; and
15

16 WHEREAS, The Ramsey County Regional Railroad Authority appointed Commissioner Jim
17 McDonough as its representative to the Commission; and
18

19 WHEREAS, It is in the best interest of the Ramsey County Regional Railroad Authority to appoint
20 an alternate to the Commission; Now Therefore, Be It
21

22 RESOLVED, That the Ramsey County Regional Railroad Authority hereby appoints
Commissioner Janice Rettman as its alternative representative to the Minnesota High Speed Rail
Commission for 2009.



2

REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date:

Regional Railroad Authority Meeting Date: 06/02/09

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

EXECUTIVE SUMMARY

On April 21, 2009, the Ramsey County Regional Railroad Authority authorized and approved the draft purchase agreements for the purchase of the Union Depot (Head House) ("Union Depot") and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing.

(Executive Summary continued on Next Page)

ACTION REQUESTED

1. Authorize and approve the final purchase agreements for the purchase of the Union Depot for the total purchase cost of \$8,186,491.
2. Accept and approve the due diligence report; and estimated total purchase costs and 2009 operating budget for the Union Depot.
3. Authorize the Chair to sign and deliver the final Agreements for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office, Regional Railroad Authority and Property Management.
4. Authorize the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreements for Sale, Purchase of Property, and due diligence reports subject to prior approval by the County Attorney's Office.
5. Authorize the Chair to sign and deliver an amendment to the Frenz's final Agreement for Sale and Purchase of Property to reduce the purchase price from \$7,700,000 to \$7,685,000.
6. Authorize and approve that all costs, expenses, taxes, charges or fees that Ramsey County is required to pay at closing, or otherwise required by the purchase agreement, may be paid from a 2008 project approved by the Regional Railroad Authority board for use in developing the Union Depot as a multi modal transportation hub.
7. Authorize the County Manager to make all necessary payments, budget adjustments, and execute an agreement with Welsh Companies, LLC for building management services for the operation of the Union Depot.

Executive Summary Continued

PURCHASE AGREEMENTS

The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, have included the following terms into the final purchase agreement with JAS Apartments, Inc. (Frenz's Property) (Attachment 1):

- Purchase price of \$7,685,000.
- Down payment of \$50,000 due at the time of execution of the Purchase Agreement.
- County will pay up to \$15,000 of Frenz's closing costs including attorney fees.
- County will pay up \$35,000 to relocate the exhaust fan from Christos Restaurant.
- Due diligence period from the date of execution of the Purchase Agreement through June 3, 2009.
- Closing date on June 4, 2009.

The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, are working on the final purchase agreement for Leventhal's property with the following terms (the final purchase agreement will be distributed upon completion):

- Purchase price of \$400,000.
- Down payment of \$25,000 due at the time of execution of the Purchase Agreement.
- Due diligence period of 30 days commencing the date of execution of the Purchase Agreement.
- Closing date after closing of Frenz's property.

DUE DILIGENCE REPORT

Staff has prepared the Due Diligence Report for the Union Depot, see Attachment 2.

TOTAL ESTIMATED PURCHASE AND OPERATING COSTS

The total estimated purchase cost is \$8,186,491 (Attachment 3). The estimated operating costs for June – December, 2009 is \$500,733, including \$350,000 to cover one time repair costs. Revenue from two leases and tenant reimbursements are estimated to generate \$150,733 during that time period leaving a balance of \$350,000 to be funded from the Regional Railroad Authority 2009 operating budget.

The Regional Railroad Authority and Property Management are requesting for authority to enter into an agreement with Welsh Companies, LLC for building management services for the Union Depot.

The funding for the purchase of the two properties is available in a 2008 project approved by the Regional Railroad Authority board for use in developing the Union Depot as a multi modal transportation hub.

The Regional Railroad Authority and Property Management are requesting the Ramsey County Regional Railroad Authority to authorize and approve the final purchase agreements for the purchase of the Union Depot; accept and approve the due diligence report; accept and approve the total estimated purchase and operating costs.

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

ATTACHMENTS:

1. Final Agreement For Sale And Purchase Of Property for Frenz's Property.
2. Property Condition Assessment Report ("Due Diligence Report") for the Union Depot.
3. Total estimated purchase and operating costs.

PREVIOUS ACTION:

On April 21, 2009, the Ramsey County Regional Railroad Authority authorized and approved the draft purchase agreements for the purchase of the Union Depot (Head House) and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing.

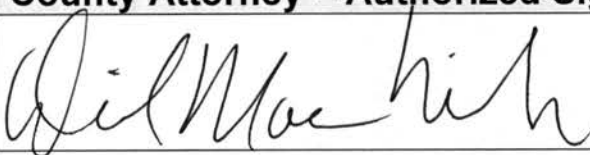
COUNTY MANAGER'S COMMENTS:

The purchase of the Union Depot head house is consistent with the Regional Railroad Authority's long-term vision to create a multi-modal transportation hub in downtown St. Paul. Its purchase allows the Rail Authority to own the premier multi-modal facility in the Twin Cities allowing Ramsey County's and the region's residents and businesses access to light rail, high speed rail, Amtrak, commuter rail, intra and intercity buses, bicycle and pedestrian facilities at a single location.

SUBJECT: Purchase Union Depot Building (Head House), St. Paul, Minnesota

Regional Railroad Authority – Authorized Signature	Date
	5-27-09

Budgeting & Accounting – Authorized Signature	Date
	5/29/09

County Attorney – Authorized Signature	Date
	5/22/09

Other– Authorized Signature	Date
	5-29-09

Other– Authorized Signature	Date

Other – Authorized Signature	Date

Subject: Purchase Union Depot Building (Head House), St. Paul, Minnesota

Draft Resolution

WHEREAS, On March 17, 2009, in an executive session, the Ramsey County Regional Railroad Authority authorized staff to negotiate ownership of the Union Depot (Head House) ("Union Depot"); and

WHEREAS, On April 14, 2009, in an executive session, staff presented the Ramsey County Regional Railroad Authority with the results of the negotiations and requested direction; and

WHEREAS, On April 21, 2009, the Ramsey County Regional Railroad Authority authorized and approved the draft purchase agreements for the purchase of the Union Depot and directed staff to return to the Ramsey County Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, have included the following terms into the final purchase agreement with JAS Apartments, Inc. (Frenz's Property):

- Purchase price of \$7,685,000.
- Down payment of \$50,000 due at the time of execution of the Purchase Agreement.
- County will pay up to \$15,000 of Frenz's closing costs including attorney fees.
- County will pay up to \$35,000 to relocate the exhaust fan from Christos Restaurant.
- Due diligence period from the date of execution of the Purchase Agreement through June 3, 2009.
- Closing date on June 4, 2009; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, are working on the final purchase agreement for Leventhal's property with the following terms (the final purchase agreement will be distributed upon completion):

- Purchase price of \$400,000.
- Down payment of \$25,000 due at the time of execution of the Purchase Agreement.
- Due diligence period of 30 days commencing the date of execution of the Purchase Agreement.
- Closing date after closing of Frenz's property; and

WHEREAS, Staff has prepared and presented a Due Diligence Report, total purchase costs, and operating budget for the Union Depot; Now, Therefore, Be It

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and approves the final purchase agreements for the purchase of the Union Depot for the total purchase cost of \$8,186,491; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby accepts and approves the due diligence report; and estimated total purchase costs and 2009 operating budget for the Union Depot; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the Chair to sign and deliver the final Agreements for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office, Regional Railroad Authority and Property Management; and Be It Further

5

51 RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County
52 Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary
53 to carry out the purposes of the Agreements for Sale, Purchase of Property, and due diligence reports
54 subject to prior approval by the County Attorney's Office; and Be It Further

55 RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the Chair to sign
56 and deliver an amendment to the Frenz's final Agreement for Sale and Purchase of Property to reduce the
57 purchase price from \$7,700,000 to \$7,685,000; and Be It Further
58
59

60
61 RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and
62 approves that all costs, expenses, taxes, charges or fees that Ramsey County is required to pay at
63 closing, or otherwise required by the purchase agreement, may be paid from a 2008 project approved by
64 the Regional Railroad Authority board for use in developing the Union Depot as a multi modal
65 transportation hub; and Be It Further
66

67 RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County
68 Manager to make all necessary payments, budget adjustments, and execute an agreement with Welsh
69 Companies, LLC for building management services for the operation of the Union Depot.

REAL ESTATE PURCHASE AND SALE AGREEMENT

RELATING TO

UNION DEPOT COMMERCIAL UNITS
SAINT PAUL, MINNESOTA

Dated as of May __, 2009

1. **Parties and Recitals.** The parties to this Real Estate Purchase and Sale Agreement ("Agreement") are:

a. (i) JAS Apartments, Inc., or its assignees, a Minnesota corporation, whose address is One East 19th Street, Minneapolis, Minnesota 55403, Phone (612) 872-7772 Fax (612) 872-7667; email: sfrenz@jasapartments.com ("Seller");

(ii) Ramsey County Regional Railroad Authority, whose address is 660 Government Center West, 50 West Kellogg Boulevard, Saint Paul, Minnesota 55102-1657, Attention: Jolly Mangine, Phone (651) 266-2261; Fax (651) 266-2264; email: jolly.mangine@co.ramsey.mn.us ("Buyer"); and

(iii) This Agreement sometimes refers to Seller or Buyer, as a "Party" or to Seller and Buyer, collectively, as the "Parties".

b. The term "Property" as used in this Agreement, means the real property located in the City of Saint Paul, County of Ramsey, State of Minnesota, legally described on Exhibit A attached hereto and made a part hereof (the "Real Property"), constituting a portion of the St. Paul Union Depot, Ramsey County, Minnesota (the "Depot"), together with (i) all buildings, parking facilities, fixtures and improvements constructed or located on such Real Property (the "Improvements"), (ii) all easements, air rights, and other rights benefiting or appurtenant to such Real Property, (iii) all interests in neighboring or contiguous alleys, streets, roads, and utilities servicing, pertaining, or relating to such Real Property and Improvements, (iv) Seller's interest in any approvals, permits and licenses benefiting the Real Property ("Permits"), (v) Seller's interest in all warranties and guaranties given to, assigned to, or benefiting Seller or such Real Property or Improvements regarding the acquisition, construction, design, use, operation, management, or maintenance of the Improvements ("Warranties"), (vi) one set of plans and specifications for the redevelopment of the Real Property and Improvements ("Plans"), (vi) the lease files relating to the Leases (as defined below) and any environmental site assessments in Seller's possession or control and relating to the Real Property or Improvements ("Records"), and (vii) the equipment and tangible personal property listed on Exhibit J attached hereto and made a part hereof ("Tangible Personal Property").

c. Good and marketable title to the Real Property and Improvements will be granted by Seller to Buyer pursuant to the terms of a Minnesota Uniform Conveyancing Blank limited warranty deed ("Deed"). Good title to the Tangible Personal Property will

be conveyed by Seller to Buyer pursuant to the terms of a limited warranty bill of sale ("Bill of Sale"). Seller's right, title and interest in and to the Permits, Warranties, Plans and Records shall be assigned by Seller to Buyer pursuant to the terms of an assignment of permits, warranties, plans and records ("Assignment of Intangibles") in the form and substance attached hereto as Exhibit B. The Property is subject to the leases ("Leases") listed on Exhibit C attached hereto and shall include all of Seller's rights and interests thereunder. Seller's rights and interests under the Leases shall be assigned to Buyer, and Buyer shall assume Seller's obligations under the Leases to be paid or performed after Closing, pursuant to the terms of an assignment and assumption of leases ("Lease Assignment") in the form and substance attached hereto as Exhibit D. The Property is subject to the parking license agreements ("Parking Licenses") listed on Exhibit E attached hereto and shall include all of Seller's rights and interests thereunder. Seller's rights and interests under the Parking Licenses shall be assigned to Buyer, and Buyer shall assume Seller's obligations under the Parking Licenses to be paid or performed after Closing, pursuant to the terms of an assignment and assumption of parking licenses ("Parking License Assignment") in the form and substance attached hereto as Exhibit F. The Property is benefited by and is subject to service and maintenance contracts and other contracts regarding the real property and the Improvements ("Contracts") listed on Exhibit G attached hereto and shall include all of Seller's rights and interests thereunder. Seller's rights and interests under the Contracts shall be assigned to Buyer, and Buyer shall assume Seller's obligations under the Contracts to be paid or performed after Closing, pursuant to the terms of an assignment and assumption of contracts ("Contract Assignment") in the form and substance attached hereto as Exhibit H.

d. Buyer is a public entity that has the power of eminent domain.

2. **Purchase and Sale.** Seller agrees to sell and Buyer agrees to purchase the Property pursuant to the terms and conditions as set forth herein.

3. **Purchase Price; Payment.** The purchase price ("Purchase Price") for the Property shall be Seven Million Seven Hundred Thousand Dollars (\$7,700,000.00), and shall be payable as follows:

a. \$50,000.00 earnest money (the "Earnest Money"), to be deposited by Buyer with Title, as defined below, within three (3) business days after the date of this Agreement. The Earnest Money shall be deposited by Title into a segregated interest-bearing account and all interest accrued thereon, less the reasonable charges of Title for setting up the interest-bearing account, shall be added to the Earnest Money and constitute a part thereof. The Earnest Money shall be applied to the Purchase Price at Closing, as defined below, or otherwise disbursed in accordance with the provisions of this Agreement. Upon any termination of this Agreement by Buyer pursuant to a right granted in this Agreement, the Earnest Money shall be refunded to Buyer.

b. The balance of the Purchase Price, net of adjustments and prorations provided for in this Agreement, shall be payable by wire transfer of immediately-available federal funds at Closing.

c. The Parties agree to deposit this executed Agreement in triplicate counterparts with Title. Title shall act as escrow agent with respect to the Earnest Money deposit. All costs of Title, if any, with respect to the escrow shall be paid by Buyer. Buyer and Seller agree to the terms of the Escrow Agreement attached hereto as Exhibit I (the "Escrow Agreement") upon Title's acceptance and execution thereof. This Agreement shall be dated as of the date this Agreement is executed by both Seller and Buyer and has been approved in substance by the Buyer's Board of Commissioners. Title shall provide Buyer and Seller each with an executed copy of the Escrow Agreement upon receipt of the Earnest Money.

4. **Closing.** The purchase and sale of the Property pursuant to this Agreement and delivery of the Deed shall occur at the offices of Guaranty Commercial Title, 100 South 5th Street, Suite 490, Minneapolis, Minnesota 55402 or at another location mutually acceptable to Seller and Buyer on June 4, 2009, or an earlier date mutually agreeable to Buyer and Seller, time being of the essence (the "Date of Closing" or "Closing") at which time:

a. Seller shall:

- (i) execute and deliver to Title, with copies to Buyer, and make arrangements to have Title record or file in the appropriate county land records, any documents necessary to establish the marketability of Seller's title to the Property;
- (ii) execute and deliver to Title, with a copy to Buyer, the Deed;
- (iii) execute and deliver to Buyer the Bill of Sale, Lease Assignment, the Parking License Assignment, the Contract Assignment and the Assignment of Intangibles;
- (iv) execute and deliver to Title a Minnesota Uniform Conveyancing Blank Affidavit of Seller evidencing the absence of bankruptcies, judgments, tax liens or marriage dissolution proceedings involving parties with the same or similar names as the Seller and evidencing the absence of mechanic's lien rights for work ordered by the Seller or any other parties except Buyer or Buyer's agents;
- (v) execute and deliver to Buyer a non-foreign affidavit in recordable form containing the information required under Internal Revenue Code Section 1445(b)(2) and any regulations relating thereto;
- (vi) execute and deliver to Title a Federal Tax Reporting Form 1099;
- (vii) deliver to Buyer and Title such documents as Buyer or Title may reasonably require relating to the organization of Seller, the authority of Seller to convey the Property, and the individual authorized to execute documents on behalf of Seller;

(viii) deliver to Buyer possession of the Property, subject to the Leases, Parking Licenses and Contracts; and

(ix) pay all costs of issuance of the Commitment, as defined below, one-half of any reasonable and customary closing or escrow fees imposed by Title, the costs of recording documents required to place title in the condition required hereby, and the state deed tax due upon delivery of the Deed.

b. Buyer shall:

(i) tender the balance of the Purchase Price to Seller in the manner provided above;

(ii) execute and deliver to Seller the Lease Assignment and the Parking License Assignment;

(iii) pay or provide evidence of payment of all title insurance premiums, one-half of any reasonable and customary closing or escrow fees imposed by Title, and the recording fees for the Deed.

5. **Evidence of Title.**

a. **Title Commitment.** Seller will obtain, at Seller's expense, a commitment for an Owner's Title Insurance Policy with respect to the Real Property ("Commitment") issued by a title insurance company with offices in St. Paul or Minneapolis, Minnesota, selected by Seller and reasonably acceptable to Buyer ("Title"). A copy of the Commitment will be delivered to Buyer.

b. **Survey.** Buyer may, at its sole cost and expense, update or obtain a survey of the Depot and surrounding areas ("Survey").

c. **Title Objections.** Within twenty (20) days after receiving the Commitment, Buyer shall make written objections to marketability of title based on matters shown therein ("Title Objections"). Buyer's failure to make Title Objections within such time shall constitute waiver of the right to make Title Objections to any matters shown in the Commitment; provided that Buyer shall not be required to object to Liens, which shall be satisfied by Seller at Closing. As to any Title Objection, Seller shall have the right, but not the obligation, to cure said Title Objection. If, by May 22, 2009, Seller has been unable or unwilling to cure all such Title Objections, then Buyer shall have the right either to terminate this Agreement without waiving any of its rights to take the Property under its powers of eminent domain, or to waive all such Title Objections and proceed to Closing and otherwise perform its obligations under this Agreement, in which case such Title Objections shall be listed as exceptions in the Deed.

d. **Survey Objections.** On or before the earlier of (i) ten (10) days after receiving the Survey, if any, or (ii) Twenty (20) days after the date of this Agreement, Buyer shall make written objections to marketability of title based on matters shown on the Survey ("Survey Objections"). Buyer's failure to make Survey Objections within

such time shall constitute waiver of the right to make Survey Objections. As to any Survey Objection, Seller shall have the right, but not the obligation, to cure said Survey Objection. If, by the Date of Closing, Seller has been unable or unwilling to cure all such Survey Objections, then Buyer shall have the right either to terminate this Agreement without waiving any of its rights to take the Property under its powers of eminent domain, or to waive all such Survey Objections and proceed to Closing and otherwise perform its obligations under this Agreement, in which case such Survey Objections shall be listed as exceptions in the Deed.

6. **Real Estate Taxes and Special Assessments.** Seller shall pay all real estate taxes and installments of special assessments payable with respect to the Property ("Taxes") in calendar year preceding the calendar year in which Closing occurs and prior years, and Buyer shall pay all Taxes payable in the calendar year following the calendar year in which Closing occurs and thereafter. Taxes payable in the year in which Closing occurs shall be prorated between Seller and Buyer based upon the number of days falling on or prior to, and after, the Date of Closing in such calendar year.

7. **Rents, Income and Expenses.** Seller shall be entitled to all rents and other revenues, and shall be responsible for all utility charges and other operating expenses, which accrue on or prior to the Date of Closing, and Buyer shall be entitled to all rents and other revenues, and shall be responsible for all utility charges and other operating expenses, which accrue after the Date of Closing. Tenant payments constituting reimbursements, or estimated reimbursements, for Taxes and operating expenses, shall be prorated at Closing based upon a paper reconciliation of reimbursement payment received compared to reimbursable expenses incurred by Seller; Seller to credit to Buyer any excess of reimbursement payments received over reimbursable expenses incurred, and Buyer to pay to Seller any excess of reimbursable expenses incurred over reimbursement payments received. Such paper reconciliation shall be performed on an estimated basis, and the parties agree to make any adjustments, by payments from Seller to Buyer or from Buyer to Seller, necessary by reason of information received after Closing promptly after such information is received.

8. **Seller's Representations.** Seller makes the following representations to Buyer:

a. The individual executing this Agreement on behalf of Seller has the legal authority to execute this Agreement on behalf of Seller and to bind Seller. Seller has the legal and entity authority to enter into this Agreement to sell the Property.

b. There are no unsatisfied judgments of record against Seller.

c. There are no state or federal tax liens filed against Seller.

d. To the best of Seller's actual knowledge, there are no unrecorded mortgages, contracts, acquisition agreements, options, leases, easements or other agreements or interests relating to the Property.

e. To the best of Seller's actual knowledge, there is no action, litigation, governmental investigation or administrative proceeding of any kind pending against Seller or involving any portion of the Property, and no third party has threatened Seller

with commencement of any such action, litigation, investigation or administrative proceeding.

f. Seller has received no notice of, nor is Seller aware of, any actual or threatened reduction or curtailment of any utility service now supplied to the Property.

g. Seller has not executed any other contracts for the sale or lease of the Property, other than the Leases and Parking Licenses, and to Seller's knowledge there are no existing rights of first refusal or options to purchase or lease the Property or any other rights of others that might prevent the consummation of this Agreement.

h. To the best of Seller's knowledge, Seller is not in material default concerning any of its legal obligations or liabilities regarding the Property.

i. To the best of Seller's knowledge, Seller owns the Property subject to exceptions of record, matters of survey, the Leases, the Parking Licenses and exceptions to be determined in accordance with Section 5 above.

If, at any time prior to the Date of Closing, Seller acquires actual knowledge of events or circumstances which render the representations set forth in this Section inaccurate in any respect, Seller shall immediately notify Buyer in writing. The warranties set forth above survive the Closing of this transaction and Seller's delivery of the Deed to Buyer.

9. **Patriot Act Representation.** Seller and Buyer hereby represent to the other that as of the date hereof and as of the Date of Closing, the following statements are and shall be true, correct and complete without material misrepresentation or omission: (i) it is not a Prohibited Person (as defined below), (ii) it is in compliance with the Anti-Terrorism Laws (as defined below), (iii) it does not conduct any business or engage in any transaction or dealing with any Prohibited Person, or deal in, or otherwise engage in any transaction relating to, property blocked pursuant to Executive Order 13224 (as defined below), and (iv) it has established policies and procedures designed to prevent and detect money laundering, including processes to meet all applicable anti-money laundering requirements of the USA Patriot Act (as defined below). For purposes of the foregoing representations: (1) "Anti-Terrorism Laws" are any laws related to terrorism or money laundering, including Executive Order 13224 and the USA Patriot Act, and any regulations promulgated under either of them, (2) "Executive Order 13224" is defined as Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001, (3) "Prohibited Person" is defined as (a) a person or entity subject to the provisions of Executive Order 13224; (b) a person or entity owned or controlled by, or acting for or on behalf of, an entity that is subject to the provisions of Executive Order 13224; (c) a person or entity with whom Buyer or Seller is prohibited from dealing by any of the Anti-Terrorism Laws; (d) a person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order 13224; (e) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department's Office of Foreign Assets Control; or (f) a person or entity who is affiliated with a person or entity described in clauses (a) through (e) immediately above, and (4) "USA Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept

and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56, as may be amended from time to time.

10. **Seller's Disclosures and Buyer's Inspection.** Within five (5) days after the date of this Agreement, Seller shall deliver to Buyer true and correct copies of all Leases, Parking Licenses, Contracts, Permits, Warranties, Plans and Records, including any amendments thereto, together with a rent roll ("Rent Roll"), certified to be true and correct by an officer of Seller, setting forth the dates through which rent and other obligations under each of the Leases and Parking Licenses have been paid or performed and any known defaults under any of the Leases and Parking Licenses, and the additional materials described on Exhibit L attached hereto to the extent in Seller's possession or control ("Project Documents"); provided that Seller shall have the right to make the Permits, Warranties, Plans, Records and Project Documents available for review at the Property instead of delivering copies thereof. The Permits, Warranties, Plans, Records and Project Documents are delivered without any warranty or representation by Seller as to the accuracy or completeness thereof. At any time before the Date of Closing, Buyer and its agents have the right, upon reasonable written notice to Seller to enter the Property and the Depot to survey and inspect the Property and Depot and to determine the condition of the Property and Depot, subject to the rights of tenants. Seller agrees to cooperate with Buyer in this regard. Buyer agrees to indemnify and defend Seller from and to hold Seller harmless against any and all claims, causes of action or expenses, including attorneys fees, relating to or arising from the activities of Buyer or its agents on the Property or in the Depot prior to the Date of Closing; provided that if this transaction does not close, Buyer shall not be responsible for any environmental conditions disclosed as a result of Buyer's inspection and Buyer's indemnification obligation does not include any costs of remediation of conditions disclosed but not caused by Buyer's inspection. Except for the express representations and warranties made by Seller in this Agreement or in documents delivered by Seller pursuant to this Agreement, Buyer is relying on its investigation of the Property and Depot and is purchasing the Property in its "AS IS WHERE IS" condition; provided that Seller agrees to deliver the Real Property to Buyer "broom clean" and to remove its personal property not included in the Property from the Real Property on or before Closing (or within a reasonable time after Closing, subject to approval by Buyer, which approval shall not unreasonably be withheld). Seller makes no representations as to the suitability of the Property for any purpose, whether by reason of its physical condition or legal entitlements.

Buyer agrees that, prior to Closing, the information and materials provided to it by Seller and the information obtained by Buyer in connection with Buyer's inspections shall be held strictly confidential, except to the extent such information is public or otherwise available to third-parties. Buyer shall have the right to disclose all or any of such information to Buyer's legal counsel, and any professional counselors or consultants used to assist Buyer in this transaction; provided that such persons are advised that such information shall be held confidential as provided above.

11. **Buyer's Contingencies.** Buyer's obligations under this Agreement are contingent on:

- a. Approval by Buyer's Board of Commissioners of Buyer's acquisition of the Property on the terms set forth in this Agreement on or before April 24, 2009;

- b. Seller's timely performance of each of Seller's obligations under this Agreement on or before the Date of Closing;
- c. The representations set forth in Sections 8 and 9 above and in the Rent Roll being true when made and remaining true in all material respects as of the Date of Closing; and
- d. Buyer shall receive, at Buyer's expense, at Closing an Owner's Title Insurance Policy insuring title to the real property in Buyer subject to no exceptions other than those exceptions approved in accordance with Section 6 above;
- e. Buyer's determination, in Buyer's sole discretion, based on the information and inspections described in Section 10 above and any other relevant information, that the Leases, the Parking Licenses, the zoning and other regulatory status of the Property, the physical and environmental condition of the Property, the economic viability of the Property and all other aspects of the Property are acceptable to Buyer in its absolute discretion.

The contingencies described in this Section are conditions precedent to Buyer's obligation to perform its obligations under this Agreement. If (a) the contingency set forth in clause a. above is not satisfied on or before April 24, 2009, or (b) the contingency set forth in clause b. above is not satisfied within ten (10) days after notice of any default by Seller is given to Seller by Buyer, or (c) the contingencies set forth in clauses c. and d. above are not satisfied on the Date of Closing, Buyer may terminate this Agreement by written notice to Seller given on or before the date such contingency is to be satisfied or within two (2) business days thereafter. If the contingency set forth in clause e. above is not satisfied, or for any other reason or no reason at all, Buyer may terminate this Agreement by written notice to Seller given on or before June 3, 2009. Upon any such termination by Buyer pursuant to this Section 11, the Earnest Money shall be refunded to Buyer. If Buyer shall not terminate this Agreement by written notice to Seller given within such time, the contingencies described in this Section shall be deemed satisfied and waived by Buyer. Further, Buyer may, at any time, unilaterally waive one or more of these contingencies by written notice to Seller. By terminating this Agreement, Buyer does not, in any way, waive its right to acquire the Property by eminent domain, now or in the future.

12. Seller's Contingencies and Certain Covenants of Buyer and Seller Regarding Separation of the Property and the Lofts. Seller's obligations under this Agreement are contingent on the Seller, on or before the Date of Closing, obtaining all necessary approvals for and filing of record of an amendment or amendments ("Declarations Amendments") to the declaration of condominium ownership for the Union Depot Lofts, Common Interest Community No. 716 (the "Lofts"), the Declaration of Easements and Covenants for the Depot, and any other applicable documents affecting title to the Property and the Lofts, to modify the rights and obligations of the owners ("Residential Owners") of units within the Lofts ("Residential Units"), and the rights and obligations of the owner ("Leone") of Lots 16 and 21, Block 1, St. Paul Union Depot ("Front Office Parcels"), as necessary, to provide as follows:

- a. The Residential Owners shall not be obligated to pay any portion of the expenses of operating, maintaining, repairing, replacing or improving, or otherwise

related to, the common elements ("Common Elements") within the Depot (i.e., the exterior areas, roof and any other portions of the Depot not entirely owned in fee by the Residential Owners, Leone or Union Depot Lofts Condominium Association, Inc.), other than twenty percent (20%) of the costs of operating and maintaining the elevators in the Depot (not including any capital repairs or improvements), other than any costs relating to the elevator that is entirely within the Lofts, between levels two and three of the Lofts, all of which shall be the responsibility of the Residential Owners.

b. Leone shall not be obligated to pay any portion of the expenses of operating, maintaining, repairing, replacing or improving, or otherwise related to, the Common Elements, other than ten percent (10%) of the costs of operating and maintaining the elevators in the Depot (not including any capital repairs or improvements), other than any costs relating to the elevator that is entirely within the Lofts, between levels two and three of the Lofts, all of which shall be the responsibility of the Residential Owners.

c. The Residential Owners shall be responsible for twenty percent (20%) of the expense for water service to the entire Depot, until such time as water service is separately metered to the Lofts, at which time the Residential Owners shall be responsible only for the charges for water service separately metered to the Lofts.

d. Leone shall be responsible for ten percent (10%) of the expense for water service to the entire Depot, until such time as water service is separately metered to the Front Office Parcels, at which time Leone shall be responsible only for the charges for water service separately metered to the Front Office Parcels.

e. The Residential Units, the Front Office Parcels, and the Property, as applicable, shall have customary reciprocal easements for (i) minor encroachments into property owned by the other, (ii) utilities currently serving the Residential Units and the Property, (iii) ingress and egress, (iv) maintenance, (v) ingress and egress, (vi) use of the trash chute and basement trash room, (vii) all existing signage and replacements thereof, including without limitation the right of the Lofts to have signage included in any marquee or other building signage, and (viii) support, all to the extent not provided by existing instruments of record.

f. Special declarant rights reserved to the Seller as owner of a portion of the Property shall be terminated or re-assigned to other owners within the Depot.

The form of the Declarations Amendments shall be substantially in the form and substance attached hereto as Exhibit K, subject to changes required by the parties whose consent thereto is required (which changes shall not materially affect the rights or responsibilities of the Buyer under the Declarations Amendments). In the event the Declarations Amendments have not been approved and filed of record by the Date of Closing, and Seller shall not have waived this contingency by written notice to Buyer, either Party shall have the option to terminate this Agreement by written notice to the other Party given at any time thereafter and prior to approval and filing of the Declarations Amendments, and upon such termination the Earnest Money shall be refunded to Buyer.

Buyer consents to the Declarations Amendments and agrees to execute such further instruments and further assurances evidencing such consent. In addition, as further consideration for this Agreement, (i) Buyer agrees to pay to Seller the sum of Thirty-five Thousand Dollars (\$35,000.00) to cover the costs and expenses of relocation of Christos' kitchen ventilation equipment to remove the same from Unit 215 of the Lofts and to be entirely within Lot 18, St. Paul Union Depot, such work to be done by Seller within sixty (60) days after Closing and such amount to be paid by Buyer to Seller within fifteen (15) days after completion of such work as certified by Seller's contractor and approval of such work by the City of St. Paul inspections department; (ii) Seller agrees to vacate the boiler room coffee shop and leave its furniture, trade fixtures and equipment relating to such coffee shop in the boiler room, except the stand-up cooler which is not included and shall be removed by Seller on or before the Date of Closing; and (iii) Seller agrees to assign to Buyer at Closing the roof warranty for the work performed by QT Roofing & Remodeling, subject to Buyer paying any warranty transfer fee payable to the contractor.

13. **Default and Remedies.** The Parties shall have the following remedies if the other Party defaults in the performance of any of such other Party's obligations under this Agreement:

a. If Seller defaults in the performance of any of its obligations under this Agreement, Buyer may elect (a) to terminate the Agreement by written notice to the Seller and/or (b) to pursue the remedy of specific performance. If Buyer elects the remedy of termination of this Agreement, Buyer may pursue its rights to acquire the Property under its powers of eminent domain at any future time.

b. If Buyer defaults in the performance of any of its obligations under this Agreement, the Seller may elect (a) to terminate this Agreement or (b) to pursue the remedy of specific performance. If Seller elects the remedy of specific performance, Buyer shall be deemed to have waived Buyer's right to pursue its rights to acquire the Property under its powers of eminent domain at any future time.

c. In any legal proceeding to enforce this Agreement upon the occurrence of a default by either Party, the prevailing Party in such proceeding will have the right also to recover its costs and expenses incurred in such proceeding, including reasonable attorney's fees and disbursements.

14. **Special Provisions Relating to Eminent Domain and Relocation.**

a. The Buyer is an "acquiring authority" within the meaning of Minn. Stat. § 117.50-117.56 and Buyer is acquiring the Property in lieu of eminent domain. Buyer may be required to provide certain relocation assistance, services, payments and benefits to Seller pursuant to Minn. Stat. § 117.52 and to any occupant of the Property.

b. Seller is aware of the types and amounts of relocation assistance, services, payments and benefits for which an owner may be eligible under state and federal law and based on such knowledge, Seller agrees that Seller is not eligible for and has no right

to any relocation benefits in connection with this transaction. In the alternative, to the extent that Seller may be eligible for any such benefits, Seller agrees that it has been compensated for any such relocation payments or benefits by receiving the acquisition price. Notwithstanding the foregoing, in the event that Buyer at any time pursues its rights to acquire the Property or any portion thereof under its powers of eminent domain, Seller shall be entitled to such relocation assistance, services, payments and benefits for which an owner may be eligible under state and federal law.

c. It shall be the Buyer's responsibility to determine the identity of the occupants of the Property. To the extent that said occupants have any right to relocation benefits, Buyer shall be solely responsible to such parties to pay such benefits, if any.

15. **Time.** Time is of the essence for all provisions of this Agreement.

16. **Survival of Terms.** The Parties' covenants, representations and warranties under this Agreement shall survive the Closing of the transaction as described herein; provided that any action commenced by Buyer against Seller based upon the representations and/or warranties set forth in this Agreement or in the documents delivered pursuant hereto shall be commenced within one (1) year after Closing.

17. **Notices.** All notices provided for in this Agreement shall be in writing. The notice shall be effective as of the date two (2) business days after the Party sending such notice deposits the notice with the United States Postal Service with all necessary postage paid, for delivery to the other Party via certified mail, return receipt requested, at the address set forth in Section 1 above. If Party delivers a notice provided for in this Agreement in a different manner than described in the preceding sentence, notice shall be effective as of the date the other party actually receives the notice. The Party sending the notice shall also mail a copy of the notice to the other Party's attorney via first class United States mail at the addresses set forth below:

Attorney for Buyer:

David F. MacMillan
Ramsey County Attorney's Office
Suite 560
50 West Kellogg Blvd. St. Paul, MN 55102
Phone: 651-266-3121
Fax: 651-266-3032
Email: david.macmillan@co.ramsey.mn.us

Attorney for Seller:

Eric S. Anderson
Fredrikson & Byron, P.A.
200 South 6th Street, Suite 4000
Minneapolis, MN 55402
Phone: (612) 492-7030
Fax: (612) 492-7077
Email: eanderson@fredlaw.com

18. **Entire Agreement.** The Parties acknowledge that this Agreement represents the full and complete agreement of the Parties relating to the Property and all matters related to the

purchase and sale of the Property. This Agreement supersedes and replaces any prior agreements, either oral or written, and any amendments or modifications to this Agreement must be in writing and executed by both Parties to be effective.

19. **Brokers.** Each party represents to the other that neither is or has been represented by a broker in this transaction and neither Buyer nor Seller shall pay or be responsible for any real estate brokerage commissions or fees in this transaction. Each Party shall indemnify the other against any and all claims for real estate brokerage commissions or fees in connection with this transaction made by a person claiming such commissions or fees based upon an agreement or contacts with the indemnifying Party.

20. **Governing Law.** This Agreement has been made under the laws of the State of Minnesota and such laws shall control its interpretation and enforcement.

21. **Delivery of Agreement not an Offer; Withdrawal of Offers.** Delivery of an unsigned copy of this Agreement shall not constitute an offer by either Party, and this Agreement shall be binding either of the Parties only upon execution by each Party and delivery of each Party's original, facsimile or other digital signature to the other Party. In the event either party delivers a signed copy of this Agreement to the other Party, the offer to sell or purchase constituted thereby may be withdrawn at any time upon delivery of notice as provided herein.

22. **Seller's Attorneys' Fees.** Whether or not the transactions contemplated by this Agreement close, Buyer agrees to pay all reasonable attorneys' fees incurred by Seller in connection with the preparation and negotiation of this Agreement and Seller's performance under this Agreement, not exceeding \$15,000.00. The provisions of this paragraph shall survive the Closing or earlier termination of this Agreement. Seller's attorney shall, at Buyer's request, provide Buyer with an itemized invoice of hours, costs, and fees, attributable to work on the transaction which is the subject of this Agreement.

23. **Operation Prior to Closing.** During the period from the date of this Agreement until the Date of Closing (the "Executory Period"), Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent and reasonable business standards, including, but not limited to, maintaining liability and hazard insurance in current form and amounts. Seller shall bear the risk of loss or damage caused by any perils through the Executory Period. During the Executory Period, Seller shall execute no contracts, leases, lease amendments, or other agreements regarding the Property or any part thereof, nor shall Seller cause or permit title to the Property to be encumbered or impaired, without the prior written consent of Buyer, which consent may be withheld by Buyer in its sole discretion.

24. **Damage.** If, prior to the Date of Closing, the Property is substantially damaged by fire, other casualty, the elements or any other cause, Seller shall promptly give notice to Buyer of such fact, and, at Buyer's option (to be exercised by notice to Seller and Title within fifteen (15) days after Seller's notice), this Agreement shall terminate, in which event Title shall return the Earnest Money to Buyer in accordance with the provisions of the Escrow Agreement. Upon such return, neither Seller nor Buyer shall have any further rights or obligations under this Agreement, except for those obligations which expressly survive termination of this Agreement. If Buyer does not elect to terminate this Agreement despite such damage, or if the Property is

damaged but not substantially, Closing shall not be delayed and Seller shall, at Seller's election, either (a) promptly and diligently commence to repair such damage or destruction and return the Property to its condition prior to such damage prior to the Date of Closing, in which event Seller shall received all insurance proceeds, or (b) assign assign to Buyer the right to receive the proceeds of all insurance related to such damage, and the Purchase Price shall be reduced by the amount of any applicable deductible, but otherwise shall remain the same. For purposes of this Section, "substantially damaged" means that the cost of repair and restoration of the damage would cost (as determined by Seller's contractor) Fifty Thousand Dollars (\$50,000.00) or more to repair.

25. **Condemnation.** If, prior to the Date of Closing, any governmental entity commences any eminent domain proceedings ("**Proceedings**") against all or any part of the Property, Seller shall promptly give notice to Buyer of such fact, and at Buyer's option (to be exercised by notice to Seller and Title within fifteen (15) days after Seller's notice), this Agreement shall terminate, in which event Title shall return the Earnest Money to Buyer in accordance with the provisions of the Escrow Agreement. Upon such return, neither Seller nor Buyer shall have any further rights or obligations under this Agreement, except for those obligations which expressly survive termination of this Agreement. If Buyer does not give such notice, then there shall be no reduction in the Purchase Price, and Seller shall assign to Buyer at the Closing all of Seller's right, title, and interest in and to any award made or to be made in the Proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the Proceedings without Buyer's prior written consent. This Section shall not apply to any Proceedings commenced by Buyer.

26. **Review by Counsel.** Buyer and Seller acknowledge that they have been represented by counsel and that their respective counsel have reviewed and approved this Agreement, and the parties hereby agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

27. **General.** The section and paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This written Agreement constitutes the complete agreement between Seller and Buyer and supersedes any prior oral or written agreements between them regarding the Property. There are no verbal agreements that change this Agreement, and no amendment of any of its terms will be effective unless in writing and executed by both Seller and Buyer. This Agreement binds and benefits Seller and Buyer and their respective successors and assigns and has been made under, and will be interpreted and controlled by, the laws of the State of Minnesota. All Exhibits referred to in and attached to this Agreement are incorporated in and made a part of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same Agreement. This Agreement is for the benefit of Buyer and Seller only and is not for the benefit of any third-party. No third-party shall have the right to enforce any provisions of this Agreement.

(Signatures appear on following pages)

Dated: April May 11, 2009

SELLER:

JAS APARTMENTS, INC.

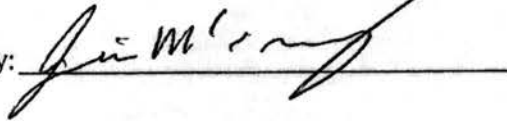
By: Stephen A. Frey
Its: President

(Separate signature page to Real Estate Purchase and Sale Agreement relating to commercial units in the St. Paul Union Depot, Ramsey County, Minnesota.)

Dated: ^{May}~~April~~ 12, 2009

BUYER:

RAMSEY COUNTY REGIONAL
RAILROAD AUTHORITY

By: 

Its: Chair

(Separate signature page to Real Estate Purchase and Sale Agreement relating to commercial units in the St. Paul Union Depot, Ramsey County, Minnesota.)

4539301_8.DOC

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All within Block 1, St. Paul Union Depot:

PID NUMBER	Lot NO.	LEVEL	DESCRIPTION
06.28.22.11.0053	Lot 1	Land	N 1/2 Blk
06.28.22.11.0054	Lot 2	Land	S 1/2 Blk under building
06.28.22.11.0055	Lot 3	Sub Bsmt	Boiler Rm
06.28.22.11.0056	Lot 4	Sub Bsmt	Pkg Garage
06.28.22.11.0057	Lot 6	Bsmt	Pkg Garage
06.28.22.11.0058	Lot 7	Bsmt	W. Room Bsmt
05.28.22.22.0053	Lot 8	Bsmt	E. Room Bsmt
06.28.22.11.0060	Lot 10	1	Great Hall
06.28.22.11.0061	Lot 11	1	Coffee Shop
06.28.22.11.0062	Lot 13	1	Christos
06.28.22.11.0064	Lot 15	2	Great Hall
05.28.22.22.0055	Lot 17	2	S Elevator
05.28.22.22.0056	Lot 18	2	Air Shaft
06.28.22.11.0066	Lot 19	3	Roof
06.28.22.11.0067	Lot 20	3	NW Elev
05.28.22.22.0057	Lot 22	3	NE Elev
05.28.22.22.0059	Lot 25	AIR	> 105'

EXHIBIT B

FORM OF ASSIGNMENT OF PERMITS, WARRANTIES, PLANS AND RECORDS

ASSIGNMENT OF PERMITS, WARRANTIES, PLANS AND RECORDS

THIS ASSIGNMENT OF PERMITS, WARRANTIES, PLANS AND RECORDS ("Assignment") is made and entered into effective as of the ____ day of _____, 2009, by and between JAS APARTMENTS, INC., a Minnesota corporation ("Assignor"), and RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision ("Assignee").

RECITALS:

- A. Assignor has or will simultaneously with the execution and delivery of this Assignment transfer to Assignee fee title to certain real property and improvements situate thereon ("Property") located in the City of St. Paul, County of Ramsey, State of Minnesota, as more particularly described in Exhibit A attached hereto.
- B. Assignor holds certain approvals, permits and licenses benefiting the Property ("Permits"), certain warranties and guaranties given to, assigned to, or benefiting Seller or such Property regarding the acquisition, construction, design, use, operation, management, or maintenance thereof ("Warranties"), a set of plans and specifications for the redevelopment of the Property ("Plans"), and the lease files relating to the leases of the Property and certain environmental site assessments relating to the Property ("Records").
- C. Assignor now desires to assign its interest in the Permits, Warranties, Plans and Records to Assignee and Assignee desires to accept such assignment upon the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. Assignor hereby assigns and transfers to Assignee all of its right, title and interest in and to the Permits, Warranties, Plans and Records and Assignee hereby accepts the foregoing assignment.
- 2. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed and delivered effective as of the date first above written.

ASSIGNOR:

JAS APARTMENTS, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

By: _____
Name: _____
Title: _____

And: _____
Name: _____
Title: _____

EXHIBIT A
TO
ASSIGNMENT OF PERMITS, WARRANTIES, PLAN AND LEASES
DESCRIPTION OF PROPERTY

EXHIBIT C

LIST OF LEASES

1. Lease to Christos Two, LLC.
2. Lease to Central Parking / Allright Parking.

EXHIBIT D

FORM OF ASSIGNMENT AND ASSUMPTION OF LEASES

ASSIGNMENT AND ASSUMPTION OF LEASES

THIS ASSIGNMENT AND ASSUMPTION OF LEASES ("Assignment") is made and entered into effective as of the ____ day of _____, 2009, by and between JAS APARTMENTS, INC., a Minnesota corporation ("Assignor"), and RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision ("Assignee").

RECITALS:

- A. Assignor has or will simultaneously with the execution and delivery of this Assignment transfer to Assignee fee title to certain real property and improvements situate thereon ("Property") located in the City of St. Paul, County of Ramsey, State of Minnesota, as more particularly described in Exhibit A attached hereto.
- B. Assignor is the lessor under certain leases affecting the Property which are more particularly described in Schedule 1 attached hereto (collectively referred to as the "Leases").
- C. Assignor now desires to assign its interest in the Leases to Assignee and Assignee desires to accept such assignment upon the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. Assignor hereby assigns and transfers to Assignee all of its right, title and interest in and to the Leases and Assignee hereby accepts the foregoing assignment and assumes the obligations of Assignor under the Leases arising from and after the date hereof.
- 2. Assignor covenants and agrees to indemnify, defend, and hold harmless Assignee from and against any actions, suits, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Leases by Assignor occurring or alleged to have occurred before the date of this Assignment.
- 3. Assignee covenants and agrees to indemnify, defend, and hold harmless Assignor from and against any actions, suites, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Leases by Assignee or arising in

connection with the Leases occurring or alleged to have occurred from and after the date of this Assignment.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed and delivered effective as of the date first above written.

ASSIGNOR:

JAS APARTMENTS, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

By: _____
Name: _____
Title: _____

And: _____
Name: _____
Title: _____

EXHIBIT A
TO
ASSIGNMENT AND ASSUMPTION OF LEASES

DESCRIPTION OF PROPERTY

SCHEDULE 1
TO
ASSIGNMENT AND ASSUMPTION OF LEASES

LIST OF LEASES

EXHIBIT E

LIST OF PARKING LICENSES

6 parking licenses to Residential Owners.

5 parking licenses to the owners of Lots 16 and 21, St. Paul Union Depot.

EXHIBIT F

FORM OF ASSIGNMENT AND ASSUMPTION OF PARKING LICENSES

ASSIGNMENT AND ASSUMPTION OF PARKING LICENSES

THIS ASSIGNMENT AND ASSUMPTION OF PARKING LICENSES ("Assignment") is made and entered into effective as of the ____ day of _____, 2009, by and between JAS APARTMENTS, INC., a Minnesota corporation ("Assignor"), and RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision ("Assignee").

RECITALS:

- A. Assignor has or will simultaneously with the execution and delivery of this Assignment transfer to Assignee fee title to certain real property and improvements situate thereon ("Property") located in the City of St. Paul, County of Ramsey, State of Minnesota, as more particularly described in Exhibit A attached hereto.
- B. Assignor is the lessor under certain parking licenses affecting the Property which are more particularly described in Schedule 1 attached hereto (collectively referred to as the "Parking Licenses").
- C. Assignor now desires to assign its interest in the Parking Licenses to Assignee and Assignee desires to accept such assignment upon the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. Assignor hereby assigns and transfers to Assignee all of its right, title and interest in and to the Parking Licenses and Assignee hereby accepts the foregoing assignment and assumes the obligations of Assignor under the Parking Licenses arising from and after the date hereof.
- 2. Assignor covenants and agrees to indemnify, defend, and hold harmless Assignee from and against any actions, suits, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Parking Licenses by Assignor occurring or alleged to have occurred before the date of this Assignment.
- 3. Assignee covenants and agrees to indemnify, defend, and hold harmless Assignor from and against any actions, suites, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Parking Licenses by Assignee or arising in connection with the Parking Licenses occurring or alleged to have occurred from and after the date of this Assignment.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed and delivered effective as of the date first above written.

ASSIGNOR:

JAS APARTMENTS, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

By: _____
Name: _____
Title: _____

And: _____
Name: _____
Title: _____

EXHIBIT A
TO
ASSIGNMENT AND ASSUMPTION OF PARKING LICENSES
DESCRIPTION OF PROPERTY

SCHEDULE 1
TO
ASSIGNMENT AND ASSUMPTION OF PARKING LICENSES
LIST OF PARKING LICENSES

EXHIBIT G

LIST OF CONTRACTS

None.

EXHIBIT H

FORM OF ASSIGNMENT AND ASSUMPTION OF CONTRACTS

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS ("Assignment") is made and entered into effective as of the ____ day of _____, 2009, by and between JAS APARTMENTS, INC., a Minnesota corporation ("Assignor"), and RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision ("Assignee").

RECITALS:

- A. Assignor has or will simultaneously with the execution and delivery of this Assignment transfer to Assignee fee title to certain real property and improvements situate thereon ("Property") located in the City of St. Paul, County of Ramsey, State of Minnesota, as more particularly described in Exhibit A attached hereto.
- B. Assignor is party to certain service and maintenance contracts and other contracts affecting the Property which are more particularly described in Schedule 1 attached hereto (collectively referred to as the "Contracts").
- C. Assignor now desires to assign its interest in the Contracts to Assignee and Assignee desires to accept such assignment upon the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. Assignor hereby assigns and transfers to Assignee all of its right, title and interest in, to and under the Contracts and Assignee hereby accepts the foregoing assignment and assumes the obligations of Assignor under the Contracts arising from and after the date hereof.
- 2. Assignor covenants and agrees to indemnify, defend, and hold harmless Assignee from and against any actions, suits, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Contracts by Assignor occurring or alleged to have occurred before the date of this Assignment.
- 3. Assignee covenants and agrees to indemnify, defend, and hold harmless Assignor from and against any actions, suites, proceedings or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and costs) incurred in connection therewith, based upon or arising out of any breach or alleged breach of any of the Contracts by Assignee or arising in connection with the Contracts occurring or alleged to have occurred from and after the date of this Assignment.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed and delivered effective as of the date first above written.

ASSIGNOR:

JAS APARTMENTS, INC.

By: _____
Name: _____
Title: _____

ASSIGNEE:

**RAMSEY COUNTY REGIONAL RAILROAD
AUTHORITY**

By: _____
Name: _____
Title: _____

And: _____
Name: _____
Title: _____

EXHIBIT A
TO
ASSIGNMENT AND ASSUMPTION OF CONTRACTS
DESCRIPTION OF PROPERTY

SCHEDULE 1
TO
ASSIGNMENT AND ASSUMPTION OF CONTRACTS
LIST OF CONTRACTS

EXHIBIT I

FORM OF ESCROW AGREEMENT

**ACKNOWLEDGMENT OF RECEIPT OF EARNEST MONEY AND
ESCROW AGREEMENT**

1. The undersigned, designated as "**Title**" by the parties to that certain Real Estate Purchase and Sale Agreement to which this Escrow Agreement is attached ("**Purchase Agreement**"), acknowledges receipt from the "Buyer" under the Purchase Agreement of \$50,000.00 as "**Earnest Money**" under the Purchase Agreement. Except as otherwise defined in this Escrow Agreement, all capitalized terms herein shall have the meaning given to them in the Purchase Agreement.

2. Title hereby agrees to act as escrow agent and to hold the Earnest Money pursuant to the provisions of the Purchase Agreement, subject to the conditions set forth below.

3. Upon receipt of an appropriate Internal Revenue Service Form W-9, all of said Earnest Money shall be held in an FDIC insured interest bearing account with interest accruing to the benefit of Buyer, unless Seller receives the earnest money as a result of the cancellation of the Purchase Agreement, in which event the interest shall also be disbursed to Seller.

4. Upon notification by both parties in writing that the transaction has closed or if Title is facilitating the Closing of the Purchase Agreement, Title will pay said Earnest Money and interest accrued thereon (the "**Deposit**") to Seller at the Closing.

5. The Purchase Agreement contemplates circumstances in which Buyer shall have the unilateral right to terminate the Purchase Agreement, including, but not limited to, by reason of contingencies set forth in the Purchase Agreement, by delivery of written notice to Seller and Title (the "**Termination Notice**"). Upon Title's receipt of a Termination Notice (provided Title receives such Termination Notice on or before June 3, 2009) Title shall immediately and simultaneously: (x) deliver a copy of the Termination Notice to Seller, in the manner provided in the Notice Section of the Purchase Agreement, and (y) disburse the full Deposit to Buyer.

6. If Buyer defaults under its Purchase Agreement obligations and Seller desires to obtain the Earnest Money from Title pursuant to the terms of the Purchase Agreement, Seller shall first be required to present to Title Seller's affidavit of such default (the "**Default Affidavit**"), executed under penalty of perjury by an authorized representative of Seller, certifying to Buyer and Title that: (a) Buyer is in default under the Purchase Agreement and did not cure such default within an applicable time period set forth in the Purchase Agreement, and (b) the Purchase Agreement has been cancelled pursuant to Minn. Stat. Section 559.21, and therefore, Seller is entitled to the Deposit. Upon receipt of the Default Affidavit from Seller, Title shall (i) deliver a copy of the Default Affidavit to Buyer in the manner as provided in the notice section of the Purchase Agreement and (ii) if within five (5) business days after the date on which the Default Affidavit is deemed given to Buyer (pursuant to the notice section of the Purchase Agreement), Title has not received from Buyer a notice ("**Objection Notice**")

objecting to Title Company's compliance with the Default Affidavit, Title shall deliver the Deposit to Seller.

7. If after June 3, 2009, Seller defaults on any of its obligations under the Purchase Agreement and Buyer desires the return of the Earnest Money from Title pursuant to the terms of the Purchase Agreement, Buyer shall first be required to present to Title its own Default Affidavit, executed under penalty of perjury by an authorized representative of Buyer, certifying to Seller and Title that Seller is in default under the Purchase Agreement and did not cure such default within any applicable time period set forth in the Purchase Agreement, and therefore, Buyer is entitled to the return of the Deposit. Upon receipt of such Default Affidavit from Buyer, Title shall (i) deliver a copy of such Default Affidavit to Seller in the manner required pursuant to the notice section of the Purchase Agreement, and (ii) if within five (5) business days after the date on which the Default Affidavit is deemed given to Seller (pursuant to the notice section of the Purchase Agreement), Title has not received from Seller an Objection Notice, objecting to Title's compliance with such Default Affidavit, Title shall deliver the Deposit to Buyer.

8. If Title receives an Objection Notice from either Seller or Buyer within the time period set forth above, then Title shall refuse to comply with the Default Affidavit then in question ("**Objectionable Default Affidavit**") until Title receives either (a) joint written instructions executed by both Buyer and Seller, or (b) a final non-appealable order with respect to the disposition of the Deposit from a federal or state court of competent jurisdiction ("**Court Order**"), in either of which events Title shall then disburse the Deposit in accordance with such written instructions or such Court Order, as applicable. Notwithstanding the immediately preceding sentence, if the party that delivers the Objection Notice does not both (i) commence litigation with respect to the Deposit by filing a complaint or action for a declaratory judgment in an appropriate court of competent jurisdiction ("**Litigation**"), and (ii) provide notice and a file-stamped copy of such complaint or, action for declaratory judgment to Title and the other party to this Escrow Agreement within sixty (60) days after delivery of the then-applicable Objection Notice, then Title shall disburse the Deposit in accordance with the Objectionable Default Affidavit.

9. The sole duties of Title shall be those described herein. Title shall be under no obligation to determine whether the parties to the Purchase Agreement are complying with any requirements of law or the terms and conditions of any other agreements among said parties. Title may conclusively rely upon and shall be protected in acting upon any notice, consent, order or other document believed by it to be genuine and to have been signed or presented by the proper party or parties, consistent with reasonable due diligence on Title's part. Title may consult the advice of counsel with respect to any issue concerning the interpretation of its duties hereunder. Buyer and Seller hereby acknowledge such fact and indemnify and hold harmless Title from any action taken by it in good faith in reliance thereon. Title shall have no duty of liability to verify any such notice, consent, order or other document, and its sole responsibility shall be to act as expressly set forth in this Agreement. Title shall be under no obligation to institute or defend any action, suit or proceeding in connection with this Agreement. If any dispute arises with respect to the disbursement of any monies, Title may continue to hold the same or commence an action in interpleader and in connection therewith remit the same to a court of competent jurisdiction pending resolution of such dispute, and the parties hereto hereby

indemnify and hold harmless Title for any action taken by it in good faith in the execution of its duties hereunder.

10. In the event of litigation between the parties with respect to this Escrow Agreement, the performance of their respective obligations, or the effect of a termination under the Purchase Agreement or this Escrow Agreement, the losing party shall pay all costs and expenses incurred by the prevailing party in connection with such litigation, including, but not limited to, court costs and reasonable fees of counsel selected by the prevailing party. Notwithstanding any provision of the Purchase agreement or this Escrow Agreement to the contrary, the obligations of the parties under this Section shall survive a termination of either or both of the Purchase Agreement and this Escrow Agreement.

Title hereby acknowledges receipt of the foregoing escrow deposit and agrees to hold the same as above specified.

Dated this ____ day of _____, 2009.

TITLE:

Address:

By: _____
Its: _____

EXHIBIT J

LIST OF TANGIBLE PERSONAL PROPERTY

1. All furniture, trade fixtures and equipment currently located on the Real Property and relating to the coffee shop in the boiler room, except the stand-up cooler which is not included and shall be removed by Seller on or before the Date of Closing.
2. The two wagons currently located in the Great Hall.
3. The lift used for changing light bulbs.
4. All "attic stock" of marble, tile or other finishes or fixtures used within the Real Property (but excluding any building materials intended for use in the residential condominium project, or building materials and equipment owned by contractors, which are not included and shall be removed by Seller on or before the Date of Closing).

EXHIBIT K

FORM OF DECLARATIONS AMENDMENTS

AMENDMENT NO. 1

TO

DECLARATION OF EASEMENTS AND COVENANTS

_____, 2009

AMENDMENT NO. 1 TO DECLARATION OF EASEMENTS AND COVENANTS

This Amendment No. 1 to Declaration of Easements and Covenants ("**Amendment**") is made this ____ day of ____, 2009, by the Approving Parties and consented to by the Residential Parcel Party, by the Commercial Parcel Parties, by the Reserved Parcel Party, and by each of the Mortgagees, as such terms are defined below.

Recitals:

A. The Residential Parcel, the Commercial Parcel and the Reserved Parcel, as defined below, are subject to that certain Declaration of Easements and Covenants dated December 31, 2007, recorded in the office of the County Recorder of Ramsey County, Minnesota, on December 31, 2007 as Document No. 4072565 (the "**Declaration**"). Capitalized terms used in this Amendment, and not otherwise defined in this Amendment, shall have the meanings given such terms in the Declaration.

B. The Residential Parcel, the Commercial Parcel and the Reserved Parcel, constituting all of the real property subject to the Declaration, are described on Exhibit A, Exhibit B, and Exhibit C attached hereto. The description of the Residential Parcel reflects the filing of the Declaration and Common Interest Community Plat for Common Interest Community No. 716, Union Depot Lofts, subsequent to filing of the Declaration. The descriptions of the Commercial Parcel and the Reserved Parcel are as set forth in the Declaration.

C. JAS Apartments, Inc., a Minnesota corporation ("**Declarant**") is the Approving Party for each of the Residential Parcel, the Commercial Parcel and the Reserved Parcel.

D. The Residential Parcel Party is Union Depot Lofts Condominium Association, the Commercial Parcel Parties are the Declarant, Leone Real Estate Holdings, LLC, a Minnesota limited liability company, and Fit Depot, LLC, a Minnesota limited liability company, and the Reserved Parcel Party is the Declarant.

G. The holders of all mortgages encumbering fee title to any portion of the Residential Parcel, the Commercial Parcel and the Reserved Parcel, and the holders of any certificates of sale arising from foreclosure of any mortgages encumbering fee title to any portion of the Residential Parcel, the Commercial Parcel and the Reserved Parcel, are [to be obtained from title searches] (collectively, the "**Mortgagees**").

H. The Declaration may be amended by an instrument executed by the Approving Parties and consented to in writing by each of the Residential Parcel Party, the Commercial

Parcel Parties, the Reserved Parcel Party and each of the Mortgagees, without the consent, approval or signature by any other person, pursuant to Section 13.4 of the Declaration.

I. The Approving Parties desire to amend the Declaration as provided in this Amendment, and the Residential Parcel Party, the Commercial Parcel Parties, the Reserved Parcel Party and each of the Mortgagees have consented thereto.

Accordingly, the Declaration is hereby amended as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into this Amendment, and the parties hereto agree that such Recitals are true and correct.

2. Allocable Share. Exhibit D to the Declaration is hereby deleted and replaced with Exhibit D attached hereto.

3. Commercial Condominium and Association Not Yet Formed. The parties acknowledge that, as of the date of this Amendment, the Commercial Association has not been formed and the Commercial Condominium has not been created by filing of a declaration or plat therefor. Therefore, the Commercial Association has no rights of approval or otherwise with respect to this Amendment.

4. Approval of Tower Crane Tie-ins. Section 2.1.6 of the Declaration is hereby deleted and replaced with the following:

2.1.6 In connection with any Alteration, any tower cranes may be attached to structural steel supports which tie into the Reserved Element by means approved by the Reserved Parcel Party, provided that (a) the Reserved Parcel Party shall not unreasonably withhold, condition or delay such approval of tie-ins of structural steel supports for such tower cranes if a structural engineer licensed to practice in the State of Minnesota certifies that such tie-ins have been designed in accordance with generally-accepted engineering practices so as not to result in any permanent damage to the Reserved Element, and (b) the operation of such cranes during Normal Business Hours does not materially affect business operations by vibration, sound or otherwise.

5. Removal of Ventilation Shaft. The last sentence of Section 2.1 of the Declaration, following Section 2.1.10, is hereby deleted and replaced with the following:

Without limiting the generality of the foregoing, Declarant hereby reserves a temporary easement for maintenance of the existing ventilation shaft through a portion of Unit 215 of the Residential Condominium, which ventilation shaft shall be removed by and at the expense of the owner of Lot 13, Block 1, St. Paul Union Depot, and the opening closed by and at the expense of such owner of Lot 13 consistent with this Section 2.1, on or before September 1, 2009.

6. Approval of Relocation of Access Facilities. Section 2.6 of the Declaration is hereby deleted and replaced with the following:

2.6 Access Facilities. Declarant hereby declares for the benefit of each Party and their Permittees, as an appurtenance to their respective Parcels, easements for pedestrian, vehicular and other appropriate access to and from such other Party's Improvements over the Access Facilities for their intended purpose. This easement may be exercised over all Access Facilities during Normal Business Hours and may be exercised twenty-four (24) hours per day, each day of the year, over at least one (1) reasonably direct route within the Access Facilities between non-contiguous portions of the Project and to provide access to the Delivery Facilities; provided that such reasonably direct routes may be subject to such security restrictions as the Party of the servient Parcel may reasonably impose. Subject to the approval of any other Approving Party whose Improvements' use or operation is materially adversely affected thereby, each in their sole and absolute discretion, a Party may from time to time following reasonable prior notice thereof to all Approving Parties, with respect to the Access Facilities within its Improvements, relocate such Access Facilities, close certain Access Facilities, reduce their size or accessibility and interfere with their use on a temporary basis. The easement provided in this Section 2.6 is subject to interruption by other causes beyond the control of the granting Party.

7. Approval of Uses. Section 3.2 of the Declaration is hereby deleted and replaced with the following:

3.2 Commercial Parcel and Reserved Parcel. The Commercial Parcel may be used only for offices, retail sales and services or, with the consent of the Reserved Parcel Party in its reasonable discretion, other commercial purposes. As used in this Section 3.2, the phrase "**retail sales and services**" includes restaurants, theaters, entertainment venues, bars, taverns, Retail Offices, Business Offices, and the sale of merchandise, goods, alcoholic and other beverages, food, groceries and services. "**Retail Office**" means an office that provides services directly to consumers, including but not limited to financial institutions, real estate, stock brokerages, title company and escrow offices, travel and insurance agencies, and medical, dental, and legal clinics. "**Business Office**" shall mean an office which does not provide services directly to consumers. Notwithstanding the foregoing, the following uses shall not be permitted: (a) second-hand goods shop, (b) adult books or adult videos or other "adult" retail activities, (c) pawn shop, (d) check cashing facility, or (e) liquidation sale lasting for more than thirty (30) days. The Reserved Parcel shall be used only for uses permitted within the Commercial Parcel and for the transportation hub purposes contemplated by Section 6.8 hereof.

8. Project Name. Section 3.5 of the Declaration is hereby deleted and replaced with the following:

3.5 Project Name. The Project as a whole and the Commercial Parcel and the Reserved Parcel shall be called or identified by the name "St. Paul Union Depot" or such other name as the Reserved Parcel Party from time to time determines and approves. The Residential Parcel shall be called or identified by the name "Union Depot Lofts" or such other name as the Residential Association from time to time determines.

9. Exterior Signage. Section 3.8 of the Declaration is hereby deleted and replaced with the following:

3.8 Exterior Signage, etc. No exterior signage, and no signs, displays or promotional or information material visible from the exterior of the Project or from any Access Facility intended for use by Permittees shall be permitted on the Residential Parcel, the Reserved Parcel or the Commercial Parcel except (a) with the prior written consent of the Reserved Parcel Party and (b) in any event in accordance with any sign criteria adopted by the Reserved Parcel Party. The Reserved Parcel Party shall not unreasonably withhold, condition or delay approval of (a) signage existing on May 1, 2009, and (b) prior to commencement of use of a portion or all of the Reserved Parcel for transportation hub purposes "for sale" or "for rent" banners or other signage attached to the Residential Element, all to the extent such signage complies with applicable City ordinances or variances therefrom.

10. Rules. Section 3.9 of the Declaration is hereby deleted and replaced with the following:

3.9 Rules. The Rules may be amended, modified or supplemented from time to time by the Reserved Parcel Party, subject to the approval of the Residential Association, which approval shall not unreasonably be withheld, conditioned or delayed.

11. Prohibited Activities. Section 3.10 of the Declaration is hereby deleted and replaced with the following:

3.10 Prohibited Activities. Except with the consent of the Reserved Parcel Party in its absolute discretion and (with respect to the Access Facilities within the Residential Parcel) the Residential Association, the following are prohibited in any part of the Access Facilities: civic, public or political activities, including without limitation, (w) exhibiting any placard, sign, or notice, (x) distribution of any circular, handbill, placard, or booklet, (y) soliciting memberships or contributions for private, civic, public or charitable purposes and (z) parading, picketing, or demonstrating.

12. Reserved Parcel Development. Section 6.8 of the Declaration is hereby deleted and replaced with the following:

6.8 Reserved Parcel Development. The Reserved Parcel Party shall have the right to further develop all or any portion of the Reserved Parcel in a manner consistent with the other provisions of this Declaration. The Parties acknowledge and agree that the Reserved Parcel was designed to be used as a railroad station, and that the Reserved Parcel Party shall have the right to develop the Reserved Parcel, or to enter into such agreements with other governmental and other persons as the Reserved Parcel Party deems appropriate, in its sole discretion, to renew the use of the Reserved Parcel, as a railroad, light rail, or other transportation hub and station or for any other purposes permitted by Section 3.2 above.

13. Approving Parties. In accordance with the provisions of Section 12 of the Declaration, Declarant hereby assigns its position as Approving Party for the Commercial Parcel and the Reserved Parcel to Ramsey County Regional Railroad Authority. Declarant shall continue as the Approving Party for the Residential Parcel.

14. Trash Room and Signage Rights. In addition to the easements granted in Section 2 of the Declaration, and notwithstanding the provisions of Section 3.8 of the Declaration, the Residential Association shall have easements for use of the trash chute and basement trash room located in the Project and for signage identifying the Residential Element, including (a) all existing signage identifying the Residential Element and replacements thereof, and (b) signage within the marquee or other signage on the Project with equal area and prominence as the signage identifying the businesses operated in or occupants of the Commercial Parcel and the Reserved Parcel or the Improvements located thereon. Trash service to the Project shall not be considered part of the Common Facilities Costs, and each Party shall pay its own trash removal expense, except to the extent otherwise agreed in writing between two or more Parties. Electrical service to signage maintained by any Party on the exterior of the Project shall not be considered part of the Common Facilities Costs, and each Party shall pay for its own electrical service to its respective signs, except to the extent otherwise agreed in writing between two or more Parties.

15. Residential Element Windows. Notwithstanding any other provisions of the Declaration or this Amendment, the costs of maintaining, repairing and replacing the perimeter (whether exterior or interior) windows of the Residential Element shall not be Common Facilities Costs. The costs of maintaining, repairing and replacing the perimeter windows of the Residential Element shall be the sole responsibility of the Residential Association. The Residential Association shall have the right to make all decisions regarding the maintenance, repair and replacement of the perimeter windows of the Residential Element.

16. Residential Deck. Notwithstanding any other provisions of the Declaration or this Amendment, the Residential Association shall have the right to leave in place, maintain, repair and replace, from time to time, the exterior deck currently serving the Residential

Element and located on the roof of the Project (the "Residential Deck"), and the costs of maintaining, repairing and replacing the Residential Deck shall not be Common Facilities Costs and shall be the sole responsibility of the Residential Association. In the event the Operator determines that the portion of the roof of the Project on which the Residential Deck is located needs to be repaired or replaced, the Residential Association shall be responsible, at its sole expense, to remove, replace or temporarily move the Residential Deck to other portions of the roof as reasonably necessary for the Operator to perform such roof repair or replacement. The Operator and Residential Association shall cooperate to minimize the expense of such removal, replacement or temporary relocation of the Residential Deck and such roof repair or replacement.

17. Other Terms. Except as modified hereby, all of the terms and conditions of the Declaration are hereby affirmed and shall continue in full force and effect. All of the provisions of Section 13 of the Declaration are hereby incorporated in this Amendment, as applicable to this Amendment.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed in its name and behalf on, or as of, the date first above written.

[Remainder Of Page Intentionally Left Blank]

APPROVING PARTY:

JAS APARTMENTS, INC.

By _____
Stephen A. Frenz
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2009, by Stephen A. Frenz, the President of JAS Apartments, Inc., a Minnesota corporation,
on behalf of the corporation.

Notary Public

RESIDENTIAL PARCEL PARTY:

UNION DEPOT LOFTS
CONDOMINIUM ASSOCIATION, INC.

By _____
Stephen A. Frenz
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2009, by Stephen A. Frenz, the President of Union Depot Lofts Condominium Association,
Inc., a Minnesota non-profit corporation, on behalf of the corporation.

Notary Public

COMMERCIAL PARCEL PARTIES:

JAS APARTMENTS, INC.

By _____
Stephen A. Frenz
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Stephen A. Frenz, the President of JAS Apartments, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public

LEONE REAL ESTATE
HOLDINGS, LLC

By _____
Richard Leone
Its Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Richard Leone, the Chief Manager of Leone Real Estate Holdings, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

FIT DEPOT, LLC

By _____
Aaron Leventhal
Its Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Aaron Leventhal, the Chief Manager of Fit Depot, LLC, a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public

RESERVED PARCEL PARTY:

JAS APARTMENTS, INC.

By _____
Stephen A. Frenz
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2009, by Stephen A. Frenz, the President of JAS Apartments, Inc., a Minnesota corporation,
on behalf of the corporation.

Notary Public

CONSENT AND SUBORDINATION BY MORTGAGEE
[Separate consent to be prepared for each mortgagee.]

As the holder of that certain [mortgage], _____, a
_____ corporation, hereby consents to the foregoing Amendment No. 1 to
Declaration of Easements and Covenants ("Amendment") by JAS Apartments, Inc., dated
_____, 2009, and hereby subordinates and subjects such mortgage, the
indebtedness secured thereby, and each and every document and agreement executed in
connection with such mortgage or securing such indebtedness to such Amendment.

By _____
Name _____
Its _____

STATE OF _____)
_____) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of
_____, 2009, by _____, the _____,
of _____, a _____ corporation, on behalf of the
corporation.

Notary Public

EXHIBIT A

Legal Description of the Residential Parcel

All Units in Common Interest Community No. 716, Union Depot Lofts, Ramsey County,
Minnesota.

EXHIBIT B

Legal Description of the Commercial Parcel

Lots 9, 11, 13, 16 and 21, Block 1, St. Paul Union Depot, Ramsey County, Minnesota.

EXHIBIT C

Legal Description of the Reserved Parcel

Lots 1, 2, 3, 4, 6, 7, 8, 10, 15, 17, 18, 19, 20, 22 and 25, Block 1, St. Paul Union Depot,
Ransey County, Minnesota.

EXHIBIT D

Allocable Share

**SOME OF THE ALLOCATIONS SET FORTH BELOW ARE ESTIMATES, BASED
ON ROUGH CALCULATIONS OF THE AREA OF EACH PARCEL, AND ARE
SUBJECT TO CHANGE AS THE ACTUAL AREAS ARE FINALIZED**

1. The Allocable Share for each Parcel and the Party thereof shall, except as provided in paragraphs 2 and 3 below, be based on the percentage that the gross floor area of the Improvements for the Parcel (excluding the area of the parking garage, as provided in Section 5.3 of the attached Declaration) is of the gross area of all Improvements within the Project (again, excluding the area of the parking garage), in each case as reflected by the Plans, provided that any alteration that materially increases or decreases the gross floor area to an extent that makes the Allocable Share of such Parcel unfairly high or low shall require a recalculation of the Allocable Shares of each Parcel. Any such recalculation shall be made initially by the Operator and shall be approved by the Approving Parties. The Allocable Share for each Parcel shall be as follows:

	<u>Gross Area</u>	<u>Allocable Share</u>
(a) Residential Parcel	37,503 sq. ft.	53.65%
(b) Commercial Parcel	21,585 sq. ft.	30.88%
(c) Reserved Parcel	10,818 sq. ft.	15.47%
	(excluding area of parking garage)	
Total	69,906 sq. ft.	100%

2. The Allocable Shares of the premium and any other expense for property insurance on the Project as required by Section 8.4 of this Declaration shall be based on the percentage that the scheduled value of the Improvements on such Parcel (excluding the parking garage) is of the aggregate scheduled values of all Improvements at any time constituting part of the Project (excluding the parking garage), as such values are determined or listed from time to time pursuant to the insurance carrier under Section 8.4.
3. Notwithstanding the provisions of paragraph 1 above or any other provision of this Declaration:
- a. Neither the Residential Association nor the Residential Parcel Parties shall be obligated to pay any portion of the Common Facilities Costs (including, without limitation, any costs of maintaining, repairing or replacing the Building Envelope Elements), or the Administration Fee relating thereto, except that the Residential Association shall be responsible for twenty percent

(20%) of (i) the costs of operating and maintaining the elevators constituting Common Facilities (not including any capital repairs or improvements thereto) and the Administration Fee related thereto, and (ii) the expense for water service to the entire Project, until such time as water service is separately metered to the Residential Element (at which time the Residential Association shall be responsible only for the charges for water service separately metered to the Residential Element). The elevator located entirely within the Residential Element, between levels two and three thereof, is agreed not to be part of the Common Facilities, and all Costs related thereto shall be the responsibility of the Residential Association. Except as provided above in this paragraph a. with respect to water service, and except for any utilities consumed within Access Facilities (if any) in the Residential Parcel, all electrical power and other utilities consumed within the Residential Parcel shall be the responsibility of the Residential Association or the owners of residential units within the Residential Parcel, whether or not separately metered.

- b. The owners ("Front Office Parcel Owners") of Lots 16 and 21, Block 1, St. Paul Union Depot (the "Front Office Parcels") shall not be obligated to pay any portion of the Common Facilities Costs, or the Administration Fee relating thereto, except that the Front Office Parcel Owners shall be responsible, in the aggregate, for ten percent (10%) of (i) the costs of operating and maintaining the elevators constituting Common Facilities (not including any capital repairs or improvements thereto) and the Administration Fee related thereto, and (ii) the expense for water service to the entire Project, until such time as water service is separately metered to the Front Office Parcels (at which time the Front Office Parcel Owners shall be responsible only for the charges for water service separately metered to the Front Office Parcels). The elevator located entirely within the Residential Element, between levels two and three thereof, is agreed not to be part of the Common Facilities, and all Costs related thereto shall be the responsibility of the Residential Association. In the event, at any time, Lots 16 and 21 are separately owned, each owner shall pay a portion of the costs allocated to said Lots 16 and 21 in proportion to the gross floor area of Improvements within each of such Lots, or otherwise as agreed between the owners of said Lots 16 and 21. Except as provided above in this paragraph b. with respect to water service, and except for any utilities consumed within Access Facilities (if any) in the Front Office Parcels, all electrical power and other utilities consumed within the Front Office Parcels shall be the responsibility of the Front Office Parcel Owners, whether or not separately metered.
- c. With respect to all Common Facilities Costs, other than the costs to be paid by the Residential Association or Front Office Parcel Owners pursuant to paragraphs 3.a and 3.b above, the Allocable Share of the remainder of the Commercial Parcel and other Commercial Parcel Parties and the Allocable

Share of the Reserved Parcel and Reserved Parcel Party shall be recalculated as if the Residential Parcel, Residential Element, Lots 16 and 21, and any Improvements within said Lots 16 and 21 were not a part of the Project.

EXHIBIT L

PROJECT DOCUMENTS

1. Final architectural drawings that were developed in connection with the residential redevelopment (print or electronic)
2. Existing Phase I Environmental Assessment Report
3. Elevator Inspection Certificate
4. Schedule of Floor Area Measurements: Gross, Usable, and Rentable SF
5. Schedule of Operating Expenses for 2008 and YTD 2009
6. List of Tenants
7. Historical costs incurred for repairs, improvements, recurring replacements for 2007, 2008 and YTD 2009

Saint Paul Union Depot Building

214 East Fourth Street



Property Condition Assessment Report

22 May 2009

Ramsey County Property Management

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I. Executive Summary

A. Purpose and Scope

Purpose

The purpose of this property condition assessment is to determine the current physical condition of the Union Depot Head House property as part of a Due Diligence effort connected with the potential sale of the building grounds and non-residential areas to the Ramsey County Regional Rail Authority (RCRRA) for future use as a multi-modal transportation hub in Downtown Saint Paul.

Scope

This property condition assessment has involved on-site examination of the Union Depot property by Ramsey County staff, as well as selected engineering and building systems consultants called in by Ramsey County Property Management. Municipal building reports on the Union Depot property have also been examined to establish a recent building permit history and confirm a list of pertinent building code violations.

B. General Description of Property

The Saint Paul Union Depot is a notable public building located in the Capital City's downtown area, an architectural link to the Upper Midwest's railway history during the first seven decades of the 20th Century. Completed in 1923, this three-story depot head house is a neoclassical structure placed on a 2-acre block bounded by Sibley, East Fourth Street, Wacouta, and Kellogg Boulevard. The building comprises nearly 188,000 gross square feet. On-site parking for 265 is largely accommodated in two below-grade building levels, with limited surface parking along a winding driveway off East Fourth Street. The building is connected to the downtown skyway system on its western end, with a skyway bridge crossing over Sibley Street.

The dominant interior space is a skylight grand hall on the main floor that originally funneled travelers coming in off East Fourth Street, through the head house and into the concourse building which connects to the railway platforms. The depot building currently provides a mix of commercial and residential spaces, including a main floor restaurant, ringed by several occupied and unoccupied commercial/office spaces. The most recent renovation work conducted in the building converted approximately one-quarter of the building space into 39 studio and loft-sized condominiums.

Because of this property's important role in regional transportation history, the Union Depot was named to the National Register of Historic Places in 1974. This designation requires any future exterior work to be reviewed and approved by the City's Heritage Preservation Commission (HPC).

This property assessment report focuses on the non-residential portions of the building (and one commercial space co-located with the condominiums on the upper floors) as well as the parking areas and the grounds.

C. General Building Condition

The infrastructure or "bones" of the Union Depot property is in relatively impressive condition. Considering the building age, multiple renovation efforts and attempts to re-purpose the property over many decades, the property has maintained much of its' historic character and solid structure. While certain building systems will need to be brought into code compliance and are in need of repair or preventive maintenance, the superstructure appears to have maintained its integrity and overall is in good condition. That common area spaces, particularly the great hall, and access points from street level, the skyway connection and the concourse will all be key in returning the property to its original designed purpose as a transportation facility. While the present use is mixed, there are many positive improvements to the property that came with the recent residential development. The areas converted to residential condominiums and contemporary office space on portions of the Main Floor and most of the Second and Third Floors, have received significant upgrades in building systems operations, interior construction, and code-compliant life safety features. By contrast, the grand hall and commercial/office spaces that surround it on the main level, as well as the unoccupied rooms on the lower, Sibley Street level, have not been similarly upgraded, with the exception of main floor public toilets used by the restaurant clientele.

In general, the notable physical deficiencies or adverse building conditions detailed in this property assessment include:

1. Significant damage to the concrete plaza and steps along the main building entry;
2. Two of the building's four elevators as they exist today will not meet the requirements of the Minnesota Elevator Code as it will be enforced beginning in 2012;
3. Hazardous building materials are suspected in the non-residential areas of the building, because the condominium space conversion project identified and abated ACM from those portions of the building;

4. Non-compliance with the Minnesota Accessibility Code (CH.1341) is evident throughout the property, beginning with the path of travel to the main and side building entrances;
5. Lighting in the grand hall on the main level is not fully operational and few if any fixtures throughout the parking levels are efficient by contemporary standards;
6. Hardware changes to exit doors and additional illuminated exit signage will likely be required with the increased occupant load anticipated by the new transit hub use;
7. A variety of building locations require fire-stopping around installed equipment;
8. City building permit history indicates that several permits have not received final inspection, either due to project inactivity, or failure to request a final inspection.
9. Neglected mechanical systems, including ductwork, are in need of routine maintenance and an on-going preventive maintenance program.
10. HVAC exhaust in the commercial kitchen needs to be replaced and brought into compliance.
11. Significant repairs are needed to the relatively recent mechanically-fastened roof installation, which is currently under warranty;
12. Fire Inspection Certificate of Occupancy noting Deficiencies must be remedied.
13. The integrity of rain leaders will need to be verified and either repaired or replaced.

D. Physical Deficiencies & Deferred Maintenance Expense Estimates

Estimated Required Expenditures for Physical Deficiencies and Deferred Maintenance

Based on recent site investigations conducted by County Staff and consultants, a series of remedies to existing physical deficiencies has been developed. These remedies are recommended to correct patent defects and rectify deferred maintenance conditions that now require repair or replacement. Remedies are presented below in two expense categories:

- **Physical Deficiencies requiring Immediate Action** include potentially unsafe conditions or probable code violations; and
- **Physical Deficiencies requiring Second Priority Remedy** include deferred maintenance items that take priority over routine preventive maintenance and should be accomplished within a two-year timeframe. This group of deficiencies may have resulted from improper design, faulty installation, or substandard quality of original materials. Systems or components that have exceeded their expected useful life and need to be replaced within the two-year timeframe are also identified in this grouping. The preliminary cost estimates reported here are based on reasonable market-rate costs, and past experience with similar building repair and upgrade situations.

1. Physical Deficiencies Requiring Immediate Action

a. Site & Landscape

1. Remove and replace damaged sections of the concrete curb and apron on the main plaza
2. Install an ADA-compliant curb-cut and identify accessible parking and an accessible drop-off point on the loop drive in front of the building

Preliminary Cost Estimate for Items 1-2 \$ 8,500.

b. Building Exterior including Roof

1. Repair Roof Drain
2. Repair the Built Up Roof (BUR)
3. Repair and Restore the Cornice
4. Repair the Drive-Through Parking Walls and Mortar
5. Reglaze Existing Skylights

Preliminary Cost Estimate for Items 1-3 is \$105,000.

Preliminary Cost Estimate for Items 4-5 is \$155,000.

c. Mechanical Systems including HVAC and Plumbing

1. Replace restaurant kitchen air unit and relocate new exhaust/duct system; complete associated controls, roofing and electrical work.

Preliminary Cost Estimate for Item 7 is \$ 35,000.

2. Replace existing floor drain piping in the parking garage.

Preliminary Cost Estimate for Item 8 is \$ 20,000.

d. Electrical System

1. Secure all junction boxes and reorganize as necessary
2. Clean and physically inspect switchgear, panels and transformers in Main Electrical Room
3. Repair two exterior and two interior light fixtures; replace one interior fixture

Preliminary Cost Estimate for Items 1-3 is \$ 22,700.

e. Building Interior

1. Realign exit signs for greater visibility, repair unlit exit signs, and add exit signs along good sight lines throughout all commercial levels of the building.

Preliminary Cost Estimate for Item 1 TBD.

Total Estimated Cost to Remedy Immediate Action Deficiencies: \$ 346,200.

2. Physical Deficiencies Requiring Second Priority Remedy

a. Site & Landscape

b. Building Exterior including Roof

1. Replace Sawtooth Monitors on roof

2. Replace Upper Roof including Skylights

Preliminary Cost Estimate for Items 1-2 is \$ 431,000.

3. Replace the main roof area BUR

Preliminary Cost Estimate for Item 3 is \$195,000.

c. Mechanical Systems including HVAC and Plumbing

1. Replace the 1983 McQuay packaged rooftop HVAC unit which supplies cooling and fresh air requirements for the common areas of the building.

Preliminary Cost Estimate for Item 1 is \$ 195,000.

d. Electrical System

1. Replace existing lighting on all parking levels with higher efficiency fixtures.

Preliminary Cost Estimate for Item 1 is \$ 58,000.

e. Building Interior

1. Upgrade two traction elevators on north end of the building to meet 2012 Elevator Code requirements, and add new controllers.

Preliminary Cost Estimate for Item 3 is \$ 100,000.

Total Estimated Cost to Remedy Second Priority Deficiencies: \$ 979,000.

E. Recommendations for Further Investigation

The following specific investigations have been recommended in the course of this property assessment:

1. Conduct a Hazardous Materials Survey, specifically looking for asbestos-containing materials (ACM) and other hazardous materials such as interior paint containing lead, light fixtures containing PCBs, etc.
2. Thermographic Inspection of all electrical switchgear, panels & transformers

III. Description and Condition by Building System

A. Site

1. Topography & Drainage

i. Description

- Site rises from East Fourth Street

ii. Observations/Comments

- Code requirements for water retention on-site
- Existing topography does not provide an accessible route onto the property from East Fourth Street up to the main entry on the north façade

2. Asphalt Paving

i. Description

- 16 Surface parking spaces provided along main drive-around

ii. Observations/Comments

- Paving is in serviceable condition. Numerous patch repairs have been made. Stall Striping is faded and non-compliant with ADA.

3. Concrete Plaza Deck, Steps & Curbing

i. Description

- Concrete plaza extends from the drive-around up to concrete X entry steps, which extend the full length of the building's main north entry.
- Narrow concrete sidewalk in poor condition runs the length of the south property line along Kellogg Boulevard. Metal railing along this walkway is also in poor condition.

ii. Observations/Comments

- This expansive concrete plaza, running the full-length of the main façade, has no waterproofing capability. Prior to the anticipated major site work required with change of use, the worst flatwork areas should be removed and re-poured, along with joint sealing on both the plaza and the front steps. A clear sealer needs to also be applied to help keep moisture out of this area.
- Front steps do not have handrails.

4. Landscaping & Appurtenances

i. Description

- Specimen Trees, Flower planning beds, turf lawn.

- A lawn irrigation system does exist on the East Fourth Street side of the property and is currently operative.

ii. **Observations/Comments**

- The irrigation system is approximately three years old and operates as designed.
- Lawn and planning beds appear to be in need of systematic maintenance including re-planting and nourishment.

5. **Utilities**

i. **Description**

- Water/Electricity/Natural Gas/Sanitary Sewer/Storm Sewer

ii. **Observations/Comments**

B. Building Envelope

1. **Substructure**

i. **Description**

- The building's substructure includes a Basement level and Sub-Basement level below grade.
- A sizable storm water pipe, located at the southeast end of the sub-basement is propped up with un-braced jacks.
- In the sub-basement garage there is a shallow well in the SE corner that holds a sump-pump. No use is known.

ii. **Observations/Comments**

- Significant amount of rust appears on bottom of electrical cabinets housed in the Main Electrical Room in the Sub-Basement. Water or moisture damage are suspected, but no recent active water damage has been observed according to present owner's building maintenance staff.

2. **Superstructure**

i. **Description**

- There is minimal Visual evidence of structural distress.
- There is minimal Visual evidence of Racking or misalignment of sidewall systems or within stairwell walls.

3. Facades

i. Description

- Sidewall system/main façade fenestration/parapets & copings.

ii. Observations/Comments

- Exterior stonework appears to have been tuck-pointed in the recent past.
- Exterior windows and doors are in uniformly poor condition.

4. Roofing

i. Description

- Combination of roof systems used on this large roof area, including a portion rendered with mechanically fastened rubber.

ii. Observations/Comments

- Non-functional, discarded equipment remains in several places on the roof

C. Interior Elements

1. Architectural Finishes and Installed Equipment

i. Description

- Main Floor Public Toilet Room Finishes: Relatively new restrooms, built in the southwest corner of the main level, are in good condition and appear to meet current accessibility code requirements.

D. Plumbing, HVAC and Electrical Systems

1. Plumbing

i. Description

The extent of plumbing concerns is in the area of the parking facility.

ii. Observations/Comments

- Upper level garage ceiling grid was designed in part to contain heat above so as to prevent the freezing of plumbing in this location. The heater in this space is likely not functional and requires maintenance and potentially replacement prior to the next winter.
- Lower level garage floor contains a mysterious pit which contains a sump-pump. Owner's maintenance personnel and the consultant have no knowledge of its' purpose or function. A more extensive evaluation for use should be conducted and if its' use cannot be revealed the pit, at a minimum, should be covered for pedestrian safety and rodent control.

- Floor drain piping in ceiling area serving the upper garage area drains is rusted and severely in need of replacement. Very unsafe conditions exists when there is such extensive visual evidence of deterioration. These pipes potentially contain sand from winter seasons and maybe very heavy, unstable are rusted and can fall from their mounting. After replacement these pipes should be flushed once per year.

2. HVAC

i. **Description**

- The four Fulton boilers were reported by Owner's staff to be approximately ten (10) years old. Each gas-fired unit has very basic controls, with no remote monitoring capability.
- District Energy service and metering equipment exists in the Boiler Room, but is capped and not engaged.
- Main Level Grand Hall unit is multi-zoned, and also services residential hallways for the condominium units as reported by Owner's staff.
- Exhaust fans in the Parking Garage sub-grade levels are on timers.

ii. **Observations/Comments**

- No heating loop treatment records are available, and no chemical treatment has previously been provided. No information available from Owner on last boiler inspection/testing. No Boiler Log available from Owner.
- HVAC unit serving the Main Level Grand Hall has not been well-maintained, with evidence of minimal filter maintenance, and deteriorated coil conditions. Question whether all cooling stages are operational due to condition of equipment.
- The poor condition of the heat pumps suggest that both the pumps and motors need to be replaced.
- The Fire Pump appears to not have been run for some time. The Jockey Pump is also in a deteriorated condition.
- The unclean condition of the Mechanical Room suggests that no preventive maintenance program has been operative, rather only reactive maintenance.
- No Carbon Monoxide monitoring system was seen in the Parking Garage areas; No MUA was seen there, and; Disconnects were off on some exhaust fans.
- Restaurant kitchen make up air system needs moving.
- Kitchen supply and exhaust grease duct need cleaning.
- McQuay Rooftop HVAC unit needs duct cleaning.
- Fulton boilers are approaching peak life expectancy.

- All existing rooftop HVAC units are in need of systematic preventative maintenance.

3. Electrical

i. **Description**

- The Main Electrical Room for the building is located on the Sub-Basement Level. The main electrical service to the building comes into this room and is distributed from here to the various commercial areas as well as residential units. Electrical switchgear cabinets serving the 39 residential condominiums are marked.
- Four meters serve the residential condominiums. One of those meters also serves other, non-residential equipment.
- A mix of lighting including 8(?) large chandeliers illuminate the main level grand hall.

ii. **Observations/Comments**

Peoples Electric Company, retained by the County to inspect the electrical system in the Union Depot, conducted a site investigation on Monday, 4 May 2009. Peoples' Manager, Dean Larson, prepared an observation summary and recommendations which are included in the Appendix to this Report. Mr. Larson identified the following electrical system issues:

- Unsecured electrical junction boxes were observed in several locations. The conductors in these junction boxes are in disarray and need to be properly reorganized;
- Rust is visible on the bases of the switchgear cabinets in the Main Electrical Room. The main switchgear need to be cleaned and physically checked for integrity of connections. A thermographic inspection of the all switchgear, panels and transformers in the building is recommended in the future when the equipment is under significant load;
- Two exterior and two interior light fixtures are in need of repair. One interior fixture is missing;
- The electrical loads for the residential areas of the building are partially separated from the general building loads. The identification and separation of residential from commercial space electrical loads needs to be completed. All individual condominium units are currently metered separately;
- Both parking levels are lighted with inefficient fixtures and lamps. Light output is substandard and the energy consumption related to these fixtures is inefficient. Parking level lighting should be entirely replaced with more efficient fixtures.

Other observations noted by County staff and other consultants during site visits include:

- The two westernmost chandeliers in the grand hall/main level are not currently functional;
- An electrical panel in the upper parking level appears to be supported by temporary wood construction and is not protected against a vehicle collision;
- The northeast and northwest stair enclosures, which serve the residential units on the east and west ends of the building, are underlit.

E. Elevators

i. Description

- A total of four elevators serve this building. A relatively new passenger elevator was installed in the southeast corner of the building as part of the condominium conversion project in 2007 (?). A 1983 passenger elevator connects all three levels on the south side of the building with the below-grade parking levels. And two, traction elevators, original to the 1923 construction (?) flank the Grand Hall on the Main Level.

ii. Observations/Comments

- City of Saint Paul Annual Elevator Certification Reports, 13 & 14 August 2008:
Item #P319T5F/4 – Install Phase I & II Firefighters Operation in accordance with the 2007 MN Elevator Special Provisions Code (1307.0047 Subp.11). Compliance required within 60 months (5 years) from January 29, 2007.

Item #P320T5F/3 – Install Phase I & II Firefighters Operation in accordance with the 2007 MN Elevator Special Provisions Code 91307.0047 Subp.11). Compliance required within 60 months (5 years) from January 29, 2007.

Item #P334H3F/1 – Install car door restrictors in accordance with the 2007 MN Elevator Special Provisions Code (1307.0047 Subp.10). Hatch latch does not work. Compliance required within 60 months (5 years) from January 29, 2007.

Item #P2168H2F/1 – Provide access to elevator pit (2002 A17.3, 2.3I). Elevator stops short on hoist-way access in up direction. Compliance required within 60 months (5 years) from January 29, 2007.

F. Fire/Life Safety

1. Sprinklers

i. Description

- Basement Parking Garage sprinkler system is a pre-action system.
- Sub-Basement Parking Garage sprinkler system is a pre-action system.

ii. Observations/Comments

- Sub-Basement Parking Garage Fire Pump: Should be verified as operational. The pump does not appear to have been run for some time. The hockey pump also looks to be in poor condition. Piping in the area is rotting, i.e., open piping that cannot not hold air.

- Fire Certificate of Occupancy with Deficiencies Report Reference #11023, dated 14 May 2008

15 items on the Deficiency List were corrected and a Certificate of Occupancy was issued in October 2008 according to Mr. Kevin Chapdelaine, Fire Inspector. The Fire Inspector confirmed on 12 May 2009 that an open issue exists regarding ceiling tile in the Parking Garage. Approximately 60% of the ceiling has no tile, affecting the performance of the existing sprinkler system. The Fire Inspector has directed the present Owner to either remove all ceiling tile and adjust sprinkler heads for proper performance or fill in the 60% open area with ceiling tile.

2. Alarm Systems

i. Description

Main Fire Panel is Silent Knight system.

ii. Observations/Comments

G. Miscellaneous

1. ADA Compliance

The property was examined for compliance with the salient requirements of the Americans with Disabilities Act (ADA). Non-compliance is noted in the major areas of building access, path of travel, hardware, and signage. National Register Status complicates the compliance issues, particularly related to building access. Two particular areas of concern regarding accessibility include:

- The existing slope of the entry plaza on the north side of the building is severe relative to ADA requirements for accessible routing to the building entrance. The current accessible entrance is below the plaza in an east-west drive-through underneath the front of the building. This entrance as it is currently configured, only serves as an accessible drop-off. No accessible parking spaces are

designated adjacent to the entrance, and the drive-through east and west exits onto Sibley and Wacouta Streets are too steep for an accessible path; and

- The temporary ramp built over the north entry steps that run the length of that building elevation is too steep to be considered accessible. The building's side entrances have a single step at their doors. Although these entrance conditions have previously been accepted as part of the historic façade, the anticipated change of use and increase in pedestrian traffic may well require an approved modification to create ADA-compliant building entries.

2. Asbestos/Environmental Concerns

The Owner reports that asbestos abatement was conducted in the residential areas of the building as part of the condominium project. This abatement work also included the ceiling in the main level grand hall. If the Owner does not have a comprehensive asbestos survey of the entire building prepared, one is called for now to determine the presence of any and all hazardous material.

3. Building Code Violations Issues

Building Code Consultant, Tate Halvorson, inspected the Union Depot property on Monday, 4 May 2009. His observations and comments are included in the Appendix to this Report. Mr. Halvorson identified the following code-related issues in his observations:

- A check of building permit history for the property shows that several construction permits issued by the City of Saint Paul over the past four years reveals a handful of permits relating to the non-residential areas of the building that have not received final approval or have been closed by the City's computer system due to inactivity.
- With the caveat that National Register property status can affect the extent of exterior modifications for accessibility under the ADA, there are serious challenges related to accessible path of travel on-site, up and into the Depot building for the anticipated change of use.
- Ceiling openings exist throughout the building interior, presumably as a result of a 1980s order to sprinkle the building. Open ceiling panels also exist that have been used by the Owner's electrical contractor. All these openings need to be closed.
- The Main Electrical Room in the Sub-Basement needs firestopping in various places to maintain a 1-hour rating and the raised entry door to this room may, with a change of use, need to be modified with landings and a ramp on both sides.

- Most of the multiple doors along the main north entrance to the building have keyed locks rather than panic hardware. Change of use could trigger the need to outfit all entry doors with panic hardware.
- Exit signage throughout the building on each level needs upgrading. Signs need to be added in certain locations and lit signs need to replace unlit signs in other areas.

Appendix - Exhibits

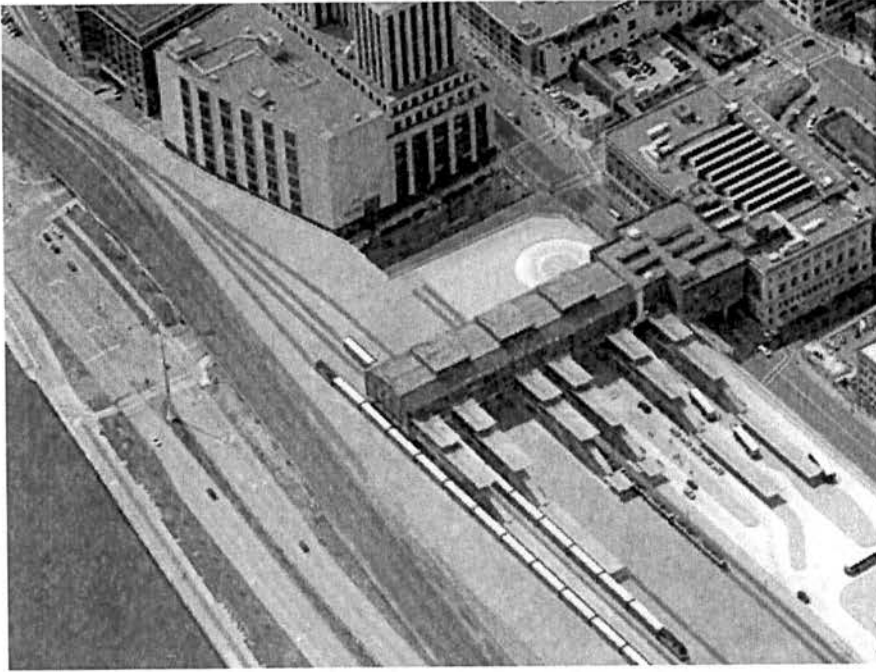
- A. Salient Facts about the Property
- B. Municipal Documents Relating to the Property
- C. Christos Restaurant Lease
- D. Central Parking Lease
- E. Residential Condominium Information
- F. Property Survey
- G. Mechanical HVAC System Information
- H. Plumbing System Information
- I. Roofing Systems Information
- J. Electrical Systems Information
- K. Phase One Environmental Report
- L. County Board Documents Relating to the Property
- M. Miscellaneous Photographs



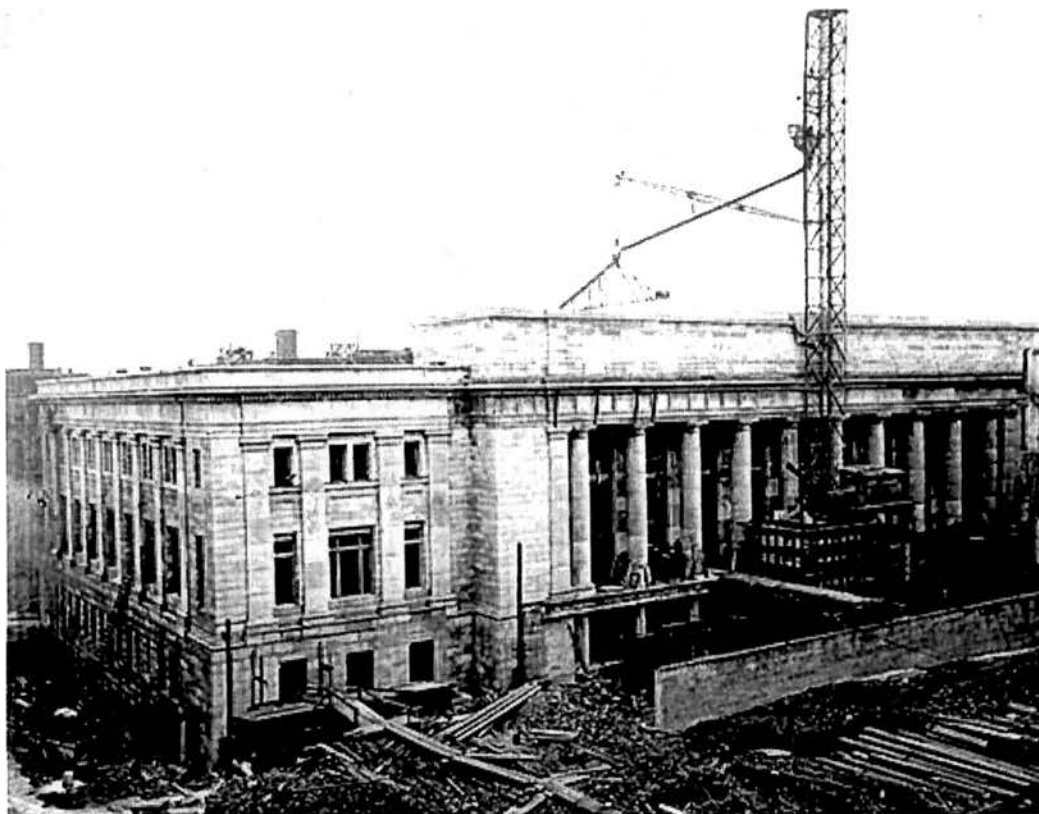
Proposed Light Rail Station Stop at Union Depot



Views of the Grand Hall



**Aerial View of Depot Head House and Concourse Buildings with
Proposed Hard Rail Platforms**



Construction Photo circa 1920



View of the Grand Hall, circa 1920s

RAMSEY COUNTY
ESTIMATED PURCHASE AND OPERATIONAL COSTS FOR UNION
DEPOT BUILDING (HEAD HOUSE)
June 2, 2009

Purchase Costs

Real Estate Purchase Agreement - Frenz' Property	\$ 7,685,000
Real Estate Purchase Agreement - Leventhal's Property	400,000
Estimated County's portion of 2009 Property Taxes	56,491
Closing Costs	30,000
Due Diligence	<u>15,000</u>
Total Estimated Purchase Costs	<u>\$ 8,186,491</u>

2009 Operational Costs

Estimated 2009 Expenses:

One Time Costs	\$ 350,000 (1)	
June 1 - December 31, 2009	<u>150,733 (2)</u>	
Total Estimated 2009 Operational Costs		\$ 500,733

Estimated 2009 Revenue:

Christos Lease - June 1 - December 31, 2009	\$ 64,575	
Parking Lease - June 1 - December 31, 2009	49,000	
Miscellaneous Reimbursements from Tenants	<u>37,158</u>	
Total Estimated 2009 Revenue		<u>\$ 150,733</u>

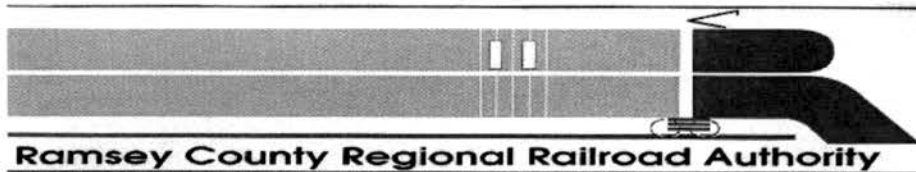
Total **\$ 350,000 (3)**

(1) The one time costs are for physical deficiencies requiring immediate action as identified in the Due Diligence Report.

(2) Operating Costs are calculated using an estimated rate of \$7.60 per 34,000 square feet for 7 months. Operating budgets for 2010 - 2011 will be prepared through the County's normal budget process.

(3) Funding approved in the Regional Railroad Authority 2009 operating budget.

86



6560 Ramsey County Government Center West
50 Kellogg Boulevard West
St. Paul, Minnesota 55102 (651) 266-2760 / FAX (651) 266-2761

REGIONAL RAILROAD AUTHORITY MEETING

AGENDA

April 28, 2009

Immediately following the County Board Meeting
Council Chambers - Third Floor Court House

.....
ROLL CALL and Call to Order

AGENDA of the April 28, 2009 Board Meeting is presented for approval.

MINUTES of the April 21, 2009 Board Meeting is presented for approval.

ADMINISTRATIVE AGENDA

1. Minnesota High Speed Rail Corridor Joint Powers Agreement

ADJOURNMENT

RAMSEY COUNTY REGIONAL RAILROAD AUTHORITY

April 21, 2009

The Ramsey County Regional Railroad Authority met in the Council Chambers, Third Floor Court House, with the following members present: Carter, Ortega, Parker, Reinhardt, Rettman, McDonough – 6. Absent: Bennett - 1.

Chair McDonough called the meeting to order at 10:45 AM

AGENDA

Commissioner Carter moved approval of the Agenda of the April 21, 2009 Board Meeting, seconded by Commissioner Parker. Roll Call: Ayes – Rettman, Carter, Ortega, Parker, Reinhardt, McDonough – 6. Nays – 0. Motion accepted.

MINUTES

Commissioner Carter moved approval of the Minutes from the April 14, 2009 Board Meeting, seconded by Commissioner Reinhardt. Roll Call: Ayes – Rettman, Carter, Ortega, Parker, Reinhardt, McDonough – 6. Nays – 0. Motion accepted.

1. I-94 and Riverview Corridor FY 2010 Federal Funding Request Support Letters

Commissioner Rettman moved approval of the following resolution, seconded by Commissioner Carter. Roll Call: Ayes – Rettman, Carter, Ortega, Parker, Reinhardt, McDonough – 6. Nays – 0. Motion accepted. (R09-14)

WHEREAS, The Ramsey County Regional Railroad Authority has supported the development of transit options that best serve the needs of county residents; and

WHEREAS, Federal funding can be requested to assist in the development of these alternatives; and

WHEREAS, The Ramsey County Regional Railroad Authority supports a \$4,000,000 funding request for I-94 Corridor and a \$1,000,000 funding request for Riverview Corridor from Congresswoman Betty McCollum's office; now, therefore be it

RESOLVED, That the Ramsey County Regional Railroad Authority authorizes its Chair to sign a letter of support for the I-94 corridor request; and be it further

RESOLVED, That the Ramsey County Regional Railroad Authority authorizes its Chair to sign a letter of support for the Riverview corridor request.

2. Purchase Union Depot Building (Head House) St. Paul, Minnesota

Commissioner Ortega moved approval of the following resolution, seconded by Commissioner Carter.

Commissioner Reinhardt commented on behalf of Commissioner Bennett that the Regional Railroad Authority (RRA) may want to consider acquiring the condos in the Union Depot in the future. She said it was not his intention to change the language in the purchase agreement, but that it is important for future consideration.

Chair McDonough confirmed that Commissioner Bennett was not suggesting that they change the language but that he believes this component of the Union Depot is a critical part of RRA's operations in the Union Depot.

Commissioner Reinhardt commended the staff and everyone involved for their hard work on this. She said at the executive sessions they discussed their vision for the future for the Depot and how to achieve it in the most economical way possible. She said this is the best way to move forward to ensure that the Depot is utilized to its full potential as a multimodal hub.

Commissioner Rettman wanted to clarify that the back taxes would be paid at the time of closing.

David MacMillian confirmed that they would be paid.

Commissioner Rettman added that one of her reservations about voting in favor of this agreement is that she wants to be informed of the fiscal note on the issues discovered during the due diligence. She is reluctant to vote yes at this time but does not preclude herself from voting in favor when it comes back to the board in 30-60 days.

Commissioner Carter commented on the growth of the project. She said the RRA staff and Board have done a great job since the beginning of the development of this solution. She wanted to stress the importance of moving forward with the purchase of the Head House.

Commissioner Parker agreed that this is an important next step. She commented that with their intention to make the Union Depot a vibrant and active place for the public with restaurants and retail, they will need to have discussions about seeking skilled, professional assistance in making that vision possible and successful.

Roll Call: Ayes – Carter, Ortega, Parker, Reinhardt, McDonough – 5. Nays – Rettman – 1. Motion accepted. (R09-15)

WHEREAS, On March 17, 2009, in an executive session, the Ramsey County Regional Railroad Authority authorized staff to negotiate ownership of the Union Depot (Head House) ("Union Depot"); and

WHEREAS, On April 14, 2009, in an executive session, staff presented the Ramsey County Regional Railroad Authority with the results of the negotiations and requested direction; and

WHEREAS, The Ramsey County Regional Railroad Authority directed staff to return to the Ramsey County Regional Railroad Authority with draft purchase agreements, with the two owners, for the purchase of the Union Depot; and

WHEREAS, The Regional Railroad Authority and Property Management, working in conjunction with the County Attorney's Office, has included the following terms into the purchase agreements:

Frenz's Property:

- Purchase price of \$7.7 million.
- Down payment of \$50,000 due at the time of execution of the Purchase Agreement.
- County will pay up to \$15,000 of Frenz's closing costs including attorney fees.
- County will pay up \$35,000 to relocate the exhaust fan from Christos Restaurant.
- Due diligence period of 30 days commencing the date of execution of the Purchase Agreement.
- Closing date before May 31, 2009.

Leventhal's Property:

- Purchase price of \$400,000.
- Down payment of \$25,000 due at the time of execution of the Purchase Agreement.
- Due diligence period of 30 days commencing the date of execution of the Purchase Agreement.
- Closing date before May 31, 2009; and

WHEREAS, The Regional Railroad Authority and Property Management are requesting Ramsey County Regional Railroad Authority to authorize and approve the draft purchase agreements for the purchase of the Union Depot; authorize the Regional Railroad Authority Chair to execute the final purchase agreements, subject to prior approval by the County Attorney's Office, Regional Railroad Authority, and Property Management; and direct staff to return to the Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs, and operating budget, before the closing; Now, Therefore, Be It

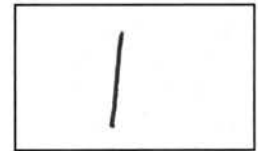
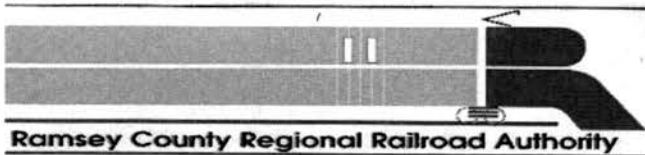
RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes and approves the draft purchase agreements for the purchase of the Union Depot for the total purchase price of \$8,100,000; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the Chair to sign and deliver the final Agreements for Sale and Purchase of Property on behalf of the County, subject to prior approval by the County Attorney's Office, Regional Railroad and Property Management; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority hereby authorizes the County Manager to execute and deliver on its behalf all necessary documents required by or deemed necessary to carry out the purposes of the Agreements for Sale, Purchase of Property, and due diligence reports subject to prior approval by the County Attorney's Office; and Be It Further

RESOLVED, That the Ramsey County Regional Railroad Authority directs staff to return to the Regional Railroad Authority with the final purchase agreements, a due diligence report, total purchase costs and operating budget, before the closing.

There being no further business, Chair McDonough declared the meeting adjourned at 10:58 AM.



REQUEST FOR ACTION

Type of Agenda: ☐ Policy ☐ Discussion
☒ Administrative ☐ Information

Regional Railroad Authority Meeting Date: 4/28/2009

Regional Railroad Authority Meeting Date:

SUBJECT: Minnesota High Speed Rail Corridor Joint Powers Agreement

EXECUTIVE SUMMARY

The Minnesota High Speed Rail Corridor begins at the Union Depot in downtown St. Paul and travels southeast along the Canadian Pacific Railway track to La Crescent prior to entering Wisconsin and continuing on to Chicago. The 135 mile Corridor is utilized by Amtrak for its Empire Builder passenger train between the Twin Cities and Chicago/Seattle. Additionally, the Midwest Regional Rail Initiative identifies the corridor as the high speed connection between the Twin Cities and Chicago.

On November 18, 2008, the Ramsey County Regional Railroad Authority directed staff to work with the Washington, Dakota, and Goodhue County Regional Railroad Authorities to develop a joint powers agreement for the Corridor. This agreement has the purpose of establishing a joint powers board that will bring together the regional railroad authorities and cities along the Corridor to cooperatively advocate for and analyze the feasibility, environmental impacts, engineering, construction and operation of an integrated rail transportation system in the Minnesota High Speed Rail Corridor. The board will also analyze the land use and development impacts associated with the Corridor.

(Executive Summary is continued on the following page.)

ACTION REQUESTED

1. Approve the Minnesota High Speed Rail Joint Powers Agreement.
2. Authorize the Chair to execute the Minnesota High Speed Rail Joint Powers Agreement.
3. Appoint Commissioner Jim McDonough as the RCRRA's representative to the Minnesota High Speed Rail Commission.

EXECUTIVE SUMMARY (Continued)

A draft of the Minnesota High Speed Rail Joint Powers Agreement (JPA) was presented to the Ramsey County Regional Railroad Authority on January 20, 2009, for review and input.

Following the January meeting, comments were received and incorporated into the JPA. A final version of the JPA has been drafted and will be distributed to eligible parties for approval. Adoption of this agreement by all eligible entities will provide the financial and policy support required to advance the Minnesota High Speed Rail Corridor.

SUBJECT: Minnesota High Speed Corridor Joint Powers Agreement

ATTACHMENTS:

1. Draft Resolution Approving the Minnesota High Speed Rail Joint Powers Agreement and appointing the RCRRA's member to the Minnesota High Speed Rail Commission
2. Final Minnesota High Speed Rail Corridor Joint Powers Agreement

PREVIOUS ACTION:

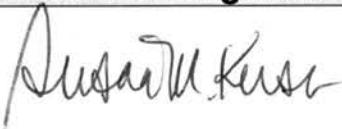
On November 18, 2008, staff was authorized to enter into discussions with staff from the Regional Railroad Authorities and cities along the Minnesota High Speed Rail Corridor develop a joint powers agreement.

On January 20, 2009, staff provided the Regional Railroad Authority with an overview of the Minnesota High Speed Rail Joint Powers Agreement. Staff was directed to bring the Final Joint Powers Agreement back to the Regional Railroad Authority for approval.

COUNTY MANAGER'S COMMENTS:

SUBJECT: Minnesota High Speed Rail Corridor Joint Powers Agreement

Regional Railroad Authority – Authorized Signature	Date
	4-23-09

Budgeting & Accounting – Authorized Signature	Date
	4/23/09

County Attorney – Authorized Signature	Date
	4/23/09

Other– Authorized Signature	Date

Other– Authorized Signature	Date

Other – Authorized Signature	Date

SUBJECT: Minnesota High Speed Rail Corridor Joint Powers Agreement
Draft Resolution

1 WHEREAS, the Midwest Regional Rail Initiative has identified a High Speed Rail
2 corridor between the Twin Cities and Chicago; and
3

4 WHEREAS, the identified Corridor enters Minnesota at La Crescent and travels
5 northwest along the Canadian Pacific Railway track to the Union Depot in downtown St. Paul;
6 and
7

8 WHEREAS, federal funds have been authorized for the development of high speed rail
9 corridors throughout the country; and
10

11 WHEREAS, to be eligible for federal funds a corridor must be identified in a State Rail
12 Plan; and
13

14 WHEREAS, the Minnesota Department of Transportation is currently undertaking the
15 development of a state rail plan that includes high speed rail corridors; and
16

17 WHEREAS, with the signing of the American Recovery and Reinvestment Act (ARRA)
18 on February 13, 2009, \$8 billion was appropriated for the implementation of High Speed Rail;
19 and
20

21 WHEREAS, ARRA waives the requirement that High Speed Rail corridors be part of a
22 state rail plan allowing for their immediate implementation; and
23

24 WHEREAS, future federal funding will require that High Speed Rail corridors be
25 identified in a State Rail Plan; and
26

27 WHEREAS, local government involvement in corridor development and implementation
28 is important to the successful development of a State Rail Plan;
29

30 WHEREAS, local government involvement in corridor development and implementation
31 is important to the successful development of High Speed Rail in Minnesota; and
32

33 WHEREAS, the development of a joint powers agreement is the best way to ensure
34 local government involvement; and
35

36 WHEREAS, a joint powers agreement has been drafted allowing the Ramsey,
37 Washington, Dakota, Goodhue, Wabasha, Winona, Houston, and Olmsted County Regional
38 Railroad Authorities in partnership with Corridor cities to cooperatively advocate for and analyze
39 the feasibility, environmental impacts, engineering, construction and operation of an integrated
40 rail transportation system in the Corridor along with the associated land use and development
41 impacts; Now, Therefore, Be It
42

43 RESOLVED, the Ramsey County Regional Railroad Authority approves the Minnesota
44 High Speed Rail Corridor Joint Powers Agreement, and Be It Further
45

46 RESOLVED, the Ramsey County Regional Railroad Authority authorizes the Chair to
47 execute the Minnesota High Speed Rail Corridor Joint Powers Agreement, and Be It Further
48

49 RESOLVED, the Ramsey County Regional Railroad Authority hereby appoints
50 Commissioner Jim McDonough as the Minnesota High Speed Rail Commission representative
51 for 2009.

5

**JOINT POWERS AGREEMENT
ESTABLISHING THE
MINNESOTA HIGH SPEED RAIL COMMISSION**

THIS AGREEMENT, is entered into by and between the undersigned Regional Railroad Authorities, Counties, and Cities, all being governmental units of the State of Minnesota, pursuant to the authority contained in the Minn. Statutes §§471.59 and 398A.

WITNESSETH

WHEREAS, the Minnesota High Speed Rail Corridor (Corridor) is defined as a Canadian Pacific railway corridor from La Crescent to the Union Depot in St. Paul, Minnesota traveling along the Mississippi River; and

WHEREAS, the Minnesota High Speed Rail Corridor will connect Minnesota to Chicago, and the greater Midwest Regional Rail System, a 3,000 mile, nine-state high speed rail network advocated for by the Midwest Interstate Passenger Rail Commission (MIPRC), and

WHEREAS, the MIPRC estimated that connecting Minnesota to the Midwest Regional Rail System would generate over 1,500 permanent jobs and \$1.2 billion in user benefit to Minnesota, and

WHEREAS, the identified economic benefits will not be achieved without high speed rail, and

WHEREAS, there are opportunities to build upon these economic benefits via a variety of rail transportation improvements to the Corridor, including passenger rail, high speed rail, and commuter rail, and

WHEREAS, investments in the Corridor provide the opportunity to simultaneously advance other rail projects, and

WHEREAS, the implementation of rail improvements allows for the maximization of public resources, and

WHEREAS, the communities along the Corridor wish to collaboratively plan for the multiple rail transportation improvements and for the related land use and development impacts to maximize the public investment.

NOW, THEREFORE, in consideration of the mutual promises and benefits that each party shall derive herefrom, the parties agree as follows:

ARTICLE 1.

DEFINITIONS

Unless the context otherwise requires, the terms defined in this section shall for all purposes of this agreement have the meanings herein stated:

Agreement means this Joint Powers Agreement as it now exists and as it may hereafter be amended.

Commission (Minnesota High Speed Rail Commission) shall mean the joint powers board herein established.

Party shall mean any Regional Railroad Authority, or City identified in Article 6 of this Agreement as eligible to participate in this Agreement and which approves and executes this Agreement.

Financial Party shall mean any financially contributing Regional Railroad Authority identified in Article 6 of this Agreement as eligible to participate in this Agreement and which approves and executes this Agreement.

Minnesota High Speed Rail Corridor shall be defined as the Canadian Pacific Railway corridor from La Crescent to the Union Depot in St. Paul, Minnesota traveling along the Mississippi River.

Passenger Rail shall mean an electric or diesel powered railway that connects multiple regions and the cities in between. Service is focused on moving people between regional centers at speeds not exceeding 90 miles per hour.

High Speed Rail shall mean an electric or diesel powered railway that travels in excess of 90 miles per hour and connects metropolitan regions together.

Commuter Rail shall mean an electric or diesel powered railway operating on existing or abandoned railway corridors connecting commuters to job centers. The service provided will be focused in the 'peak' commuting periods, but could include off-peak and special event service.

Member shall mean an individual appointed to the Commission as provided in Article 4 of this Agreement.

Quorum shall mean a majority of members, provided such majority includes at least a majority of Financial Parties as defined in the Agreement.

Host Railroad shall mean the owner of the railroad track upon which Passenger Rail, Commuter Rail, or High Speed Rail will travel.

ARTICLE 2.**PURPOSE**

The purpose of this Agreement is to form a joint powers board under the provisions of Minnesota Statutes Section 471.59 and 398.A. This Agreement shall enable the Parties to cooperatively advocate for, analyze the feasibility, environmental impacts, engineering, construction, and operation of an integrated rail transportation system in the Minnesota High Speed Rail Corridor that includes passenger, high speed, commuter, and freight rail along with its associated land use and development impacts. These activities may include but not be limited to the acquisition and management of federal, state, and local funding in conjunction with the Minnesota Department of Transportation, Metropolitan Council, La Crosse Area Planning Committee, and the Wisconsin Department of Transportation and the performance of any responsibilities delegated by the Commissioner of Transportation, Chair of the Metropolitan Council, Chair of the La Crosse Area Planning Committee, and/or the Secretary of Transportation subject to the conditions that sufficient funds are received.

The Parties will communicate and coordinate the Commission's activities as necessary with Canadian Pacific Railway, Burlington Northern Santa Fe Railway, Union Pacific Railway, Amtrak, state agencies, counties, municipalities, the Federal Railroad Administration, other regulatory, planning, and funding agencies, tribal authorities, and other stakeholders for advancement of the Commission's purposes.

The method of accomplishing the purpose of this Agreement is the establishment of a Joint Powers Board to provide a mechanism whereby the Parties jointly address the need for enhanced rail transportation options along the Corridor.

ARTICLE 3.**TERM**

This Agreement shall be effective (the Effective Date) and the joint powers board established herein may commence exercising the powers authorized in this Agreement on the date that the Agreement has been approved by resolution and duly executed by two (2) Financial Parties by action of their governing boards. This Agreement shall remain in full force and effect until terminated by the Parties pursuant to Article 10 of the Agreement.

ARTICLE 4.**JOINT POWERS BOARD**

- A. There is hereby created a Joint Powers Board as a public entity, to be known as the Minnesota High Speed Rail Commission. The Commission shall be an entity separate from its member Parties and shall not be deemed an agent or partner of the member Parties and the member Parties shall not be liable for the actions of the Commission. The Commission shall have full authority to exercise all powers stated herein.
- B. The Commission shall consist of one Member and one alternate appointed through resolution by a Party for an initial term commencing with the execution of this Agreement until January 15, 2011. Each Member or alternate must be a member of

the governing body, commission, or council which appoints him or her, and must remain so during his or her term.

- C. Thereafter, each Member and alternate shall be appointed for one-year terms, beginning January 15, by resolution of the governing body, commission, or council. In the event that any Member or alternate shall not have been appointed by January 15 in any year, the incumbent Member shall serve until a successor has been appointed. Removal of any Member or alternate during the term for which the Member has been appointed may be done at any time, but shall be done only by resolution of the appointing governing body, commission, or council.

ARTICLE 5.

VOTING

Board voting shall be as follows: Each Financial Party receives three (3) votes and each Party that is a non-Financial Party receives one (1) vote.

- A. In the event that the appointed Member is not present at a meeting, their alternate may cast all of their Party's allocated votes.
- B. All actions of the Commission require both a simple majority vote of the Parties present and a simple majority vote of the Financial Parties present. However, for all actions involving the expenditure of funds and adoption of the budget, a simple majority of the whole Commission plus a super majority vote of all Financial Parties is required. A super majority vote is defined as at least 2/3 of the Financial Parties.

ARTICLE 6.

PARTIES

The government units that are eligible for participation in this Commission upon adoption of this agreement by their respective governmental units on or before December 31, 2009 include:

- A. Financial Parties:
 - a. Dakota County Regional Railroad Authority
 - b. Goodhue County Regional Railroad Authority
 - c. Houston County Regional Railroad Authority
 - d. Olmsted County Regional Railroad Authority
 - e. Ramsey County Regional Railroad Authority
 - f. Wabasha County Regional Railroad Authority
 - g. Washington County Regional Railroad Authority
 - h. Winona County Regional Railroad Authority
- B. Non-Financial Parties:
 - a. City of Cottage Grove
 - b. City of Dakota
 - c. City of Dover
 - d. City of Eyota

- e. City of Goodview
 - f. City of Hastings
 - g. City of Kellogg
 - h. City of La Crescent
 - i. City of Lake City
 - j. City of Lewiston
 - k. City of Minneiska
 - l. City of Minnesota City
 - m. City of Newport
 - n. City of Red Wing
 - o. City of Rochester
 - p. City of St. Charles
 - q. City of St. Paul
 - r. City of St. Paul Park
 - s. City of Stockton
 - t. City of Utica
 - u. City of Wabasha
 - v. City of Winona
- C. If an entity identified in this Article 6 does not elect to become a Party by December 31, 2009, it may thereafter do so only by amendment to this Agreement pursuant to Article 11 hereof.
- D. Following the initial term, Commission Members terms shall commence on January 15 of a calendar year and end on January 14 of the next succeeding year, or until a successor is appointed.

ARTICLE 7.

POWERS OF COMMISSION

The Commission has such authority as is necessary and proper to make all decisions to carry out its purpose as described in Article 2. Such powers shall be subject to the provisions of Minn. Stat. § 471.59 and 398.A and will include, but not be limited to, any or all of the following powers to the extent provided by law or not otherwise limited by this Agreement.

- A. Adopt an annual budget, together with a statement of the sources of funding and an estimated amount required of each Financial Party.
- B. Enter into transactions, including contracts or leases, required in furtherance of this Agreement and statutory mandate, and enforce such transactions to the extent available in equity or at law. The contracting and purchasing requirements of the Commission's designated fiscal agent as identified in Article 9 D shall apply hereto. The Commission may approve any contract relating to this Agreement up to the amount approved in the annual budget, and may authorize the Chair of the Commission to execute those contracts.

- C. The Commission shall have the power to adopt such by-laws that it may deem necessary or desirable for the conduct of its business. Such by-laws shall be consistent with this Agreement and any applicable laws or regulations. The by-laws may provide for the appointment by the Commission of ex-officio, non-voting members to the Board, including but not limited to the appointment of representatives from the Prairie Island Indian Community to serve as ex-officio non-voting members, and may establish such conditions as it deems appropriate for such appointment. Approval of the by-laws shall be in accordance with Article 5 of this Agreement.
- D. Apply for and accept gifts, grants, and loans of money, other property, or assistance from the United States government, the State of Minnesota and its political subdivisions, the State of Wisconsin and its political subdivisions, the Prairie Island Indian Community, or any person, corporation, partnership, association, or agency, public or private for any of its purposes; enter into any agreement in connection therewith, to hold, use and dispose of such money, other property, and assistance in accordance with the terms of the gifts, grants, or loans relating thereto.
- E. Acquire and hold such real and personal property as may be required to accomplish the purposes of this Agreement and, upon termination of this Agreement, make distribution of such property as is provided for in this Agreement.
- F. Employ agents and employees, and to fix the compensation and all other terms and conditions of employment thereof.
- G. Incur debts, liabilities, or obligations which do not constitute a debt of any of the parties. The Joint Powers Board does not have authority to incur debts, liabilities, or obligations which constitute a debt of any of the parties.
- H. Enter into agreements and non-binding memoranda of understanding between the Commission and the Prairie Island Indian Community, Host Railroads including Canadian Pacific Railway, Burlington Northern Santa Fe Railway, Union Pacific Railway, and Amtrak in accordance with applicable law.
- I. Sue and be sued in its own name.
- J. Purchase such insurance in its own name as the Commission deems necessary
- K. The Commission agrees to indemnify and defend any Party against any and all liability, costs, damages, and expenses sustained or incurred by the Party pursuant to this agreement. Furthermore, pursuant to Minnesota Statute 471.59 subd 1a., the Parties and each one of them hereby affirmatively declare that they will not be responsible for the acts or omissions of any other Party under this agreement.

All powers granted herein shall be exercised by the Commission in accordance with the legal requirements applicable to the regional railroad authorities.

ARTICLE 8.

OFFICERS, EMPLOYEES, AND SERVICES

A. Chair and Vice-Chair

The Commission shall elect a Chair and Vice-Chair from its membership at its first regular meeting each year. The Chair and Vice Chair shall consist of at least one Financial Party member. The Chair and Vice-Chair shall be elected by the Commission for a term of one (1) year. The Chair shall preside at all meetings of the Commission, may establish such committees as may be needed from time to time and shall perform other duties and functions as may be determined by the Commission. The Vice-Chair shall assume the duties of the Chair during the absence of the Chair and perform such other duties as may be determined by the Commission. If both the Chair and Vice-Chair are absent, the Commission may elect a temporary Chair to conduct its business, provided a quorum is present. Notwithstanding any other provision of this Agreement, election of a temporary chair shall be by a simple majority vote of the quorum.

B. Executive Committee

The Commission may establish an Executive Committee of the Commission consisting of one (1) representative of each Financial Party. The Executive Committee shall develop and make recommendations to the Commission regarding the ongoing responsibilities of the Commission, and shall have such other duties as set forth in the Commission's by-laws.

C. Staff

Each Party may provide staff support to the Commission, subject to the approval of the Commission.

D. Vacancies

If an appointment of any Member or alternate is vacated before the end of his or her term, the vacancy shall be filled by appointment by the appropriate Party pursuant to Articles 4 and 6 of this Agreement. Vacancies shall be filled within thirty (30) days of their occurrence. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist.

E. Meetings

The Commission shall meet at regular intervals at such times and places as the Commission shall establish in its by-laws. Special meetings may be held on reasonable notice by the Chair or any two members upon terms and conditions as the Commission may determine and that conform to the Minnesota Open Meeting Law, Minn. Stat. § 13D.

F. Committees

The Commission may establish standing committees of the Commission by providing for such committees by resolution. The Chair may establish ad hoc committees of the Commission.

ARTICLE 9.

FUNDING

It is understood by the Parties that the activities and duties of the Commission are to be funded primarily by grant monies from the United States Government, the State of Minnesota or any other association or agency. Nevertheless, the Financial Parties identified in this Agreement agree to contribute funding, if necessary, to cooperatively analyze the feasibility, environmental impacts, engineering, construction, and operation of an integrated rail transportation system in the Minnesota High Speed Rail Corridor including passenger, high speed, commuter, and freight rail along with the associated land use and development impacts and administrative expenses of the Commission (to the extent not covered by grant funds) and other items deemed necessary to facilitate development of the Corridor. The Financial Parties agree that they will proportionately contribute funds, if necessary, to carry out the purposes and duties of the Commission

A. Funding Allocation

Funding responsibility shall be allocated among the Financial Parties for the purpose of analyzing the feasibility, environmental impacts, and engineering of an integrated rail transportation system in the Minnesota High Speed Rail Corridor as follows:

1. 50% of the annual operating budget of the Commission and any other funding requirements shall be allocated among the Financial Parties on the basis of each Financial Party's proportionate share of the total population of all Financial Parties.
2. 10% of the annual operating budget of the Commission and any other funding requirements shall be allocated among the Financial Parties on the basis of each Financial Party's proportionate share of Corridor Mileage for all Financial Parties.
3. 31% of the annual operating budget of the Commission and any other funding requirements shall be allocated for high speed rail or commuter stations planned to be located with a Financial Party's jurisdiction as follows:
 - A. Ramsey County Regional Railroad Authority
 - a. High Speed Rail
 - i. Union Depot 8%
 - b. Commuter Rail
 - i. Lower Afton Road 3.5%

- B. Washington County Regional Railroad Authority
 - a. High Speed Rail
 - i. None 0%
 - b. Commuter Rail
 - i. Newport 3.5%
 - ii. Cottage Grove 3.5%
- C. Dakota County Regional Railroad Authority
 - a. High Speed Rail
 - i. None 0%
 - b. Commuter Rail
 - i. Hastings 3.5%
- D. Goodhue County Regional Railroad Authority
 - a. High Speed Rail
 - i. Red Wing 3.5%
 - b. Commuter Rail
 - i. None 0%
- E. Wabasha County Regional Railroad Authority
 - a. High Speed Rail
 - i. None 0%
 - b. Commuter Rail
 - i. None 0%
- F. Winona County Regional Railroad Authority
 - a. High Speed Rail
 - i. Winona 3.5%
 - b. Commuter Rail
 - i. None 0%
- G. Houston County Regional Railroad Authority
 - a. High Speed Rail
 - i. None 0%
 - b. Commuter Rail
 - i. None 0%
- H. Olmsted County Regional Railroad Authority
 - a. High Speed Rail
 - i. Rochester 3.5%
 - b. Commuter Rail
 - i. None 0%

4. 9% of the annual operating budget of the Commission and any other funding requirements shall be allocated among the Financial Parties equally.
5. If a prospective Financial Party fails to join the Commission, or a Financial Party withdraws from the Commission, such Financial Party's share of the funding obligations in this Article 9 shall be reallocated proportionately among the remaining Financial Parties. If the Financial Party that fails to join the Commission, or withdraws from the Commission has an allocation as described in Article 9 (3) the resulting percentage from this allocation shall be added to the percentage in Article 9 (4).
6. All percentages shall be rounded to the nearest .25%. If this rounding results in a total combined percentage from Article 9 (1), (2), (3), and (4) that is over 100% the overage shall be credited to one or more Financial Parties at the discretion of a majority vote of the Financial Parties.
7. Allocation of the share identified in Article 9 (1) shall, from the effective date of this agreement until December 31, 2011 (Initial Period) shall be based upon the 2001 population estimates by the Minnesota State Demographer. Beginning with the budget allocation for the year 2012 and every four years thereafter, the Commission shall update the population estimates and reallocate the financial share of each Financial Party. Each Financial Party shall pay its contributions to the Regional Railroad Authority acting as the fiscal agent of the Commission within 30 days of the Commission's approving a budget.

Prior to the completion of engineering work the Financial Parties shall reevaluate the funding responsibility allocation for the purpose of construction and operation of an integrated rail transportation system in the Minnesota High Speed Rail Corridor.

B. Annual Budget

For the calendar year next following the calendar year in which the Effective Date occurs and all subsequent years, the Commission shall establish and approve a budget. Each Financial Party shall be assessed for its proportionate share of the budget according to the schedule above. The Commission shall establish its first budget within 60 days of the commencement of the Commission.

C. Financial Parties Budget Approval

Adoption of the budget shall be in accordance with Article 5 of this Agreement.

D. Contribution Date

Except for any initial contribution required by this Agreement, assessments made under the provisions of this article shall be paid by each Financial Parties by January 15th of each year. The initial contribution shall be made within sixty (60) days of the adoption of the budget pursuant to Article 7 (A) hereof.

E. Budgeting, Accounting, Fiscal Agent, and Other Service

The Commission may contract with any Financial Party to provide contract management, legal review, and budgeting and accounting services necessary or convenient for the Commission and otherwise act as the Commission's fiscal agent. Such services shall include, but not be limited to, management of all funds, including contributions and grant monies, payment for contracted services, and relevant bookkeeping and record keeping. The contracting and purchasing requirements of the member so selected shall apply to transactions of the Commission. Such member shall identify the staff person to work as a liaison with the Commission.

F. Accountability for Funds

All funds shall be accounted for according to generally acceptable accounting principles. A report on all receipts and disbursements shall be forwarded to the Commission on an annual basis. The Parties have the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from established Commission funds shall be credited back to that same fund.

A. Withdrawal

Any Party may withdraw from this Agreement upon 90-days prior written notice evidenced by resolution of the party's governing body to the Commission. In the event of withdrawal by any member Party, this Agreement shall remain in full force and effect as to all remaining Parties.

B. Effect of Withdrawal, Disposition of Property, Funds, and Obligations

A Party withdrawing from this Agreement shall, prior to such withdrawal, pay the full amount of any unpaid assessments to the Commission as defined in Article 8. A member Party withdrawing from this Agreement shall not receive a distribution of property or funds until such time as this Agreement is terminated by all Parties pursuant to this Article 10. Such disposition of property shall be in accordance with the provisions of Section D of this Article 10.

Any Party withdrawing shall be liable for any assessment in the year in which the withdrawal becomes final only for the period in such year that the member Party remains a Party. The Party's assessment shall not exceed the sum of one-twelfth (1/12th) the full assessment multiplied by the number of months or fractions thereof in the year during which the Party remains a Party to this Agreement.

C. Termination

This Agreement shall terminate upon the occurrence of any one of the following events:

- a. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction; or
- b. When all the Financial Parties agree, by resolution adopted by the respective governing bodies, to terminate this Agreement and all obligations of the Commission shall have been paid or otherwise defeased in full.

D. Disposition of Property and Funds

At such time as this Agreement is terminated, any property interest remaining in the Commission, following discharge of all obligations owed by the Commission, shall be disposed of and the proceeds of the property shall be returned to the member Parties in proportion to their contribution over the life of the agreement.

E. Effect of Withdrawal of Financial Party on Budget

In the event a Financial Party withdraws, the unpaid assessment allocable to such Party in the year of withdrawal and subsequent years shall be reallocated to the remaining Financial Parties in proportion that the assessment allocations under Article 9(A) hereof bear to each other. Any reallocated assessments to the remaining Financial Parties due to the withdrawal of a Financial Party(ies) are due within sixty (60) days of the reallocation.

F. Effect of an Eligible Financial Party not joining on Budget

In the event a Financial Party chooses not to join the Agreement, the financial allocation allocable to such Financial Party in the year of their choosing not to join and subsequent years shall be reallocated to the remaining Financial Parties in proportion that the assessment allocations under Article 9(A) hereof bear to each other. Any reallocated assessments to the remaining Financial Parties due to the withdrawal of a Financial Party(ies) are due within sixty (60) days of the reallocation.

ARTICLE 11.

MISCELLANEOUS

A. Amendments

This Agreement may be amended by unanimous agreement of the member Parties as evidenced by resolutions adopted by the respective governing bodies.

B. Records, Accounts, and Reports

The Commission shall establish and maintain such funds and accounts as may be required by good accounting practices. The books and records of the Commission shall be subject to the provisions of Minn. Stat. Ch. 13, the Minnesota Government Data Practices Act, and Minn. Stat. § 16C.05, subd. 5. The Commission, within one hundred twenty (120) days after the close of each fiscal year, which shall be January 1 to December 31, shall give a complete written report of all financial activities for such fiscal year to the Parties.

C. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

D. Severability

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of the Agreement is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this Agreement.

E. Entire Agreement

This Agreement constitutes the entire agreement between the member Parties and supersedes all prior written or oral agreements relating to the Commission.

F. Alternate Dispute Resolution

In the event of a dispute arising under this Agreement, the member Parties and the Commission agree to attempt to resolve their dispute by following the process described below:

1. A member Party or Parties shall provide written notice to the Commission describing perceived conflict, positions, and underlying reasons.
2. The Commission shall provide written response to notice within seven (7) days of receipt of notice.
3. The Parties and Commission shall meet within 14 days of receipt of response with a neutral facilitator. The neutral facilitator will be a representative from the Minnesota Office of Dispute Resolution. Costs of such facilitator shall be shared equally by all parties to the dispute.
4. At the first meeting, the neutral facilitator will assist the parties to the dispute in identifying the appropriate Parties and participants in the dispute resolution process, their concerns, a meeting agenda and design for any subsequent meetings. The Parties shall agree on a process for resolving the problem that would involve additional negotiations, mediation, or arbitration.
5. In developing the process, the parties will be guided by the following principles:
 - i. the Parties will attempt in good faith to reach a negotiated settlement;
 - ii. the Parties agree that there must be fair representation of the parties directly involved in the dispute;
 - iii. the Parties will use legal proceedings as a last resort; and
 - iv. in the event the Parties are unable to resolve the dispute, each party retains all rights, remedies, or defenses it had prior to entering the process.
6. The Parties will report to the Commission within 60-days of their first meeting on the resolution of the dispute or a recommendation to commence legal proceedings.

G. Minnesota Laws Govern

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance. The appropriate venue and jurisdiction for any litigation shall be in State district court located within the County of Ramsey, State of Minnesota. Litigation, however, in the federal courts involving the Parties will be in the appropriate federal court within the State of Minnesota. If any provision of this agreement is invalid, illegal, or unenforceable the remaining provisions will not be affected.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on the date written below.