Appendix G
Supporting 4(f) Information
<table>
<thead>
<tr>
<th>Project Name (on enhancements.org)</th>
<th>Trail Name</th>
<th>Geographic Description</th>
<th>City</th>
<th>Federal Award</th>
<th>Local Match</th>
<th>Total Cost</th>
<th>Year Programmed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mpls-Bikeway</td>
<td>Cedar Lake Trail</td>
<td>TH 100 to Royalston Avenue</td>
<td>Minneapolis</td>
<td>$648,155</td>
<td>$445,746</td>
<td>$1,093,901</td>
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<tr>
<td>Kenilworth Trail</td>
<td>Kenilworth Trail</td>
<td></td>
<td>Minneapolis</td>
<td>$500,634</td>
<td>$125,159</td>
<td>$625,793</td>
<td>1999</td>
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<tr>
<td>TH 7 Overpass on SWLRT Regional Trail</td>
<td>Bridge over TH 7</td>
<td>Bridge between Beltline Blvd &amp; TH100</td>
<td>St.Louis Park</td>
<td>$353,762</td>
<td>$88,440</td>
<td>$442,202</td>
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<td>Midtown Greenway Safety Elements</td>
<td>Midtown Greenway</td>
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<td>Minneapolis</td>
<td>$450,000</td>
<td>$118,108</td>
<td>$568,108</td>
<td>2003</td>
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<td>Urban Village Midtown Greenway</td>
<td>Midtown Greenway</td>
<td>From Dupont to Colfax</td>
<td>Minneapolis</td>
<td>$338,139</td>
<td>$84,535</td>
<td>$422,674</td>
<td>2006</td>
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<td>Cedar Lake Trail-3rd Ave N Connection</td>
<td>Twins Way</td>
<td>Between 7th St N &amp; 12th St N</td>
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<td>$484,572</td>
<td>-</td>
<td>$484,572</td>
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<tr>
<td>At Beltline Blvd in SLP</td>
<td>Bridge over Beltline</td>
<td></td>
<td>St.Louis Park</td>
<td>$1,027,200</td>
<td>$256,800</td>
<td>$1,284,000</td>
<td>2011</td>
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</table>
RESOLUTION NO. 37-HCRRA-92

The following resolution was offered by Commissioner Andrew, seconded by Commissioner Johnson:

WHEREAS, The City of Minneapolis Park and Recreation Board (Park Board) and Hennepin County Regional Railroad Authority (HCRRA) property in the Cedar Lake-Kenwood area, Bryn Mawr area, and the near northside Harrison area in Minneapolis; and

WHEREAS, Such use is consistent with similar activities currently allowed by Hennepin County in several municipalities on the Southwest Corridor between the cities of Hopkins and Victoria; and

WHEREAS, The Park Board has already acquired portions of land adjacent to Cedar Lake in Golden Valley, St. Louis Park, and Minneapolis; and

WHEREAS, The Park Board has offered to police and maintain this area at no cost to the HCRRA and would like to lease the property for open space purposes,

BE IT RESOLVED, That staff is directed to negotiate a lease with the City of Minneapolis Park and Recreation Board for interim use of specific properties owned by the HCRRA in the City of Minneapolis until such time that those properties become necessary for light rail transit; and

BE IT FURTHER RESOLVED, That the negotiated lease be brought to the HCRRA for approval prior to execution; and

BE IT FURTHER RESOLVED, That no permanent structures or fixtures be installed during the interim use of HCRRA properties, and that HCRRA staff be directed to explore means of retaining recreational uses of said properties as a compatible use with light rail transit when and if such properties are determined to be utilized for light rail transit.

The question was on the adoption of the resolution and there were ___7___ YEAS and ___ 0 ___ NAYS as follows:

<table>
<thead>
<tr>
<th>BOARD OF COMMISSIONERS</th>
<th>HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY</th>
<th>YEA</th>
<th>NAY</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peter McLaughlin</td>
<td>X</td>
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<td></td>
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<tr>
<td>Randy Johnson</td>
<td>X</td>
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<tr>
<td>John Keefe</td>
<td>X</td>
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<tr>
<td>John E. Derus</td>
<td>X</td>
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<tr>
<td>Tad Jude</td>
<td>X</td>
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<td></td>
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<tr>
<td>Judy Makowske</td>
<td>X</td>
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<tr>
<td>Mark Andrew, Chairman</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

RESOLUTION ADOPTED MAY 10, 1992

ATTEST: Tad Jude, Secretary
Hopkins to Chaska Trail
RESOLUTION NO. 52R-HCRRRA-92

The following resolution was offered by Commissioner Keefe, seconded by Commissioner Johnson:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRRA) has purchased a system of linear rail corridors for implementation of Light Rail Transit (LRT); and

WHEREAS, integrated use of portions of the property for trail use is deemed compatible with implementation of LRT; and

WHEREAS, the Interim Use Policy established by HCRRRA provides for utilization of the rail corridors for hiking trails until LRT is established within the corridors; and

WHEREAS, interim use is not consistent across municipal boundaries and the Suburban Hennepin Regional Park District is prepared to assume administrative responsibility and provide for consistent use of the LRT corridors from Hopkins to Victoria and Chaska until such time as LRT is implemented,

BE IT RESOLVED, that Lease No. A09222 and Lease No. A09922 with the Suburban Hennepin Park Reserve District providing for interim use of Light Rail Transit corridors between Hopkins and Victoria and Chaska, including the cities of Hopkins, Minnetonka, Eden Prairie, Chanhassen, Deephaven, Greenwood, Excelsior, Shorewood and Victoria be approved, and that the Chairman be authorized to sign the Lease on behalf of the Authority.

The question was on the adoption of the resolution and there were 7 YEAS and 0 NAYS as follows:

<table>
<thead>
<tr>
<th>BOARD OF COMMISSIONERS</th>
<th>YEAS</th>
<th>NAY</th>
<th>OTHER</th>
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<tr>
<td>Peter McLaughlin</td>
<td>X</td>
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<tr>
<td>Randy Johnson</td>
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<tr>
<td>John Keefe</td>
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<tr>
<td>John E. Derus</td>
<td>X</td>
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<td>Tad Jude</td>
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<tr>
<td>Judy Makowske</td>
<td>X</td>
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<td></td>
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<tr>
<td>Mark Andrew, Chairman</td>
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</tbody>
</table>

RESOLUTION ADOPTED JULY 14, 1992

ATTEST: 

Tad Jude, Secretary
PERMIT AGREEMENT

This agreement, entered into by and between the Hennepin County Regional Rail Authority, a Minnesota political subdivision, ("Permitor") and Suburban Hennepin Regional Park District, a Minnesota political subdivision ("Permittee").

In consideration of the covenants by and between the parties, it is hereby agreed:

1. **Premises.**

   Permitor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property located in Hennepin and Carver Counties, Minnesota, described as follows:

   The center 16 feet generally conforming to the track bed of all that part of the HCRRA right-of-way, formerly the Chicago and NorthWestern Transportation Company's right-of-way from State Highway 169 in Hopkins southwesterly to Mile Post 32 in Chaska westerly of U.S. Highway 212 in Carver County.

   The said real estate shall be hereinafter described as the "Premises."

2. **Uses.**

   The Premises shall be for the use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes only, including but not limited to pedestrian use, cross county skiing, and the riding of horses, bicycles and other vehicles, and for all uses and requirements necessary to the enjoyment of the Premises for said uses. Permittee shall be granted temporary use of adjacent lands controlled by Permittor as reasonably required for construction and maintenance of the Premises.
3. **Term.**

The term of this permit shall be for an indefinite period, commencing on ________________, until termination in accordance with Paragraph 4.

4. **Termination.**

Either party may at any time terminate this permit by giving thirty (30) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Rail Authority by delivering a copy thereof to the executive director of the principal office in the Hennepin County Government Center, Minneapolis, Minnesota 55487 or by depositing the same in the United States post office directed to the Executive Director of the principal office. Such notice may be served on the Suburban Hennepin Regional Park District by delivering a copy thereof to its Superintendent, 12615 County Road 9, Plymouth, Minnesota 55441. Except as provided herein, this agreement may not be terminated or revoked by either party hereto.

5. **Temporary Nature of Use.**

Permittee acknowledges that the Premises was acquired by Permittor specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Permittor's intention to allow Permittee to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Permittor of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Permittor has agreed to the terms of this Permit to provide
a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination.

On the expiration of thirty (30) days after such service of said notice, this permit and all rights hereunder shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. Permittee shall without further notice or demand, deliver possession of the Premises to the Permittor at the expiration of said thirty (30) days and shall before the expiration of said thirty (30) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Permittor, cease and Permittee's interest thereto shall be forfeited and at the same time shall belong to Permittor or, in such case, if the Permittor shall elect, it may, at any time after the expiration of said period of thirty (30) days, tear down and/or remove any or all such buildings and property at the expense of Permittee without any liability for damages thereof in any respect whatsoever and Permittee shall thereupon promptly reimburse Permittor for all expenses incurred by it in doing so.

7. Rent.

Upon any such termination of this permit, rent shall be paid by the Permittee to the date of termination fixed by said notice at the rate of $1.00 per year.
8. **Other Users.**

The Hennepin County Regional Rail Authority shall assume responsibility for securing such permissions as may be required from the Minnesota Department of Transportation in connection with this permit. In addition, Permittor shall use its best efforts to terminate or amend any permits or leases, or other written permission to the Premises which may previously have been extended to others by Permittor and which conflict with this permit.

9. **Subpermits.**

Permittee shall have the right to grant permits to subpermittees on the same terms and conditions and for the same uses as are contained in this permit. The Permittor shall have the right to review and approve said subpermits, but such approval shall not be unreasonably withheld. Said subpermits may provide for the survival of such subpermits by consent of Permittor in the event of any failure to perform on the part of Permittee.

10. **Signage.**

Permittee shall maintain signage, including kiosks, on the Premises identifying the Premises as a temporary trail corridor of the Suburban Hennepin Regional Park District. Any such signage must receive the prior approval of Permittor and also identify the Hennepin County Regional Railroad Authority as the owner of the corridor and that the corridor is reserved for light rail transit or other future transportation uses.

11. **Nuisance.**

Permittee shall not permit the existence of any nuisance on said Premises. Permittee at all time shall keep said Premises
clean and shall comply with all laws, ordinances and regulations respecting Permitee's business and use and occupation of said Premises. Permitee at its sole cost shall make any and all improvements, alterations, repairs and additions and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that Permitee may post on appropriate structures, informational materials relating to the trail.

12. Utilities, Title.

Permitee accepts said Premises subject to the rights of any person, firm or corporation, including the Permittor in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it at any time become necessary because of Permitee's use of the Premises to relocate any of said poles, wires or facilities by reason of this permit, Permitee shall bear and pay the cost of so doing.

Permitee also accepts said Premises subject to any want or failure at any time of Permittor's title to said Premises or any part thereof and Permitee shall assume any damages sustained by Permitee in connection therewith. Permitee also accepts such Premises subject to rights of any party, including Permittor, in and to any existing roadways and easements. Permitee agrees to provide to Permittor or other tenants of Permittor access over and through the Premises on these roadways and easements should such access be deemed necessary by Permittor. Permitee accepts said
Premises subject to the right of Permittor, its employees, agents and contractors to walk upon said Premises to repair adjacent property and the right of Permittor, its employees, agents and contractors to temporarily place equipment upon the property at Permittor's own responsibility and risk for the purpose of maintaining, repairing or inspecting or constructing upon Permittor's adjacent property.

13. **Indemnification.**

Permittee shall defend, indemnify and hold harmless Permittor, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of Permittee, its agents, employees, customers, invitees, subpermittees or other occupiers of the Premises.

Permittor shall not be liable to Permittee or those claiming by, through, or under Permittee for any injury, death or property damage occurring in, on or about the Premises based upon the construction, operation or maintenance of the Premises by Permittee or any subpermittee, nor for the loss or damage by reason of the present or future condition of repair of the Premises, or for the loss or damage arising from the acts or omissions or Permittee, its agents, employees, customers, invitees, subpermittees or other occupiers of the Premises.

14. **Insurance.**

Permittee further agrees that if in any case the release and indemnity provided in this section shall not be valid,
Permittor shall have the full benefit of any insurance effected by the Permittee upon the property injured, destroyed or damaged and/or against the hazard involved; and Permittee agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against Permittor in connection therewith.

15. Waste.

Permittee, in consideration of the permitting of the said Premises, as herein provided, hereby covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said Permittee and to yield up said Premises unto the Permittor at the expiration or termination of this permit agreement in as good condition as when entered upon.

16. Quiet Enjoyment.

Permittor has the right and authority to enter into this agreement and if Permittee pays the rent required hereby and otherwise performs the terms hereof to be performed by Permittee, Permittee shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding the foregoing, Permittee acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 12.

17. Waiver.

No receipt of money by Permittor from Permittee after any default by Permittee or after the expiration of this permit or
after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this permit or affect any such notice or suit, as the case may be. No waiver of any default of Permittee shall be implied from omission by Permitter to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.


It is further agreed between the parties hereto, that if the said Permittee shall breach or make default in any of the conditions, covenants or agreements of this permit, which breach or default shall continue for fifteen (15) days after Permittee's receipt of written notice thereof from Permitter, then it shall be lawful for the Permitter, then or at any time thereafter, to declare this permit ended, and to reenter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination at the end of thirty (30) days' notice; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of Permitter thereafter to avail itself of same and any
subsequent breach thereof. In the event Permittor has to take action for repossession of said property, Permittee, its assigns or heirs shall be liable for reasonable attorney's fees incurred by Permittor.

19. Assignment.

The benefits and obligations of this permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the Permittee unless specifically stated herein. Permittor reserves the right to review and revise the rental applicable to this permit upon any change in the status of this permit, the Permittee, or person occupying in the Premises during the term of this permit or any renewal thereof.

20. Improvements.

Permittee shall be responsible for the construction of all improvements necessary to the maintenance of a trail corridor on the Premises and the maintenance of said trail corridor. Permittee shall also be responsible for the construction of all bridges and crossings deemed necessary for Permittee to maintain the trail corridor. Construction plans, if any, shall be submitted to the Permittor for review and comment. Permittor reserves the right to reject any plans for construction proposed by Permittee on the grounds, in Permittor's sole discretion, that said plans are incompatible with its future use of the Premises.
21. **Law Enforcement.**

Permittee shall have primary responsibility for the promulgation of rules, regulations and ordinances relating to the Premises. The parties hereto recognize that municipal ordinances and law enforcement may also be involved in regulating the Premises. Permittee agrees to use its best efforts to coordinate regulation and law enforcement of the Premises with the several municipalities in which the Premises lie.

22. **Environmental Concerns.**

Permittee shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. Permittee shall bear the expense of all practices or work, preventative or remedial, which may be required because of any conditions of the Premises introduced by Permittee, Subpermittees or Invitees during Permittee's period of use, including conditions introduced by Permittee which affect other lands. Permittee expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. Permittee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Permittor discovers any such health or environmental impairment, and Permittee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Permittor shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the premises for environmental contamination and in the course thereof to conduct soil and groundwater testing. Permittor may
enter the Premises during regular business hours of Permittee without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of Permittee or without if Permittor reasonably believes that an emergency exists on the Premises. Permittor shall conduct any such inspections or testing so as to minimize interference with Permittee's operations. Permittor's entry on to the Premises pursuant to this paragraph shall not relieve the Permittee's obligation to pay rent under this Permit.

23. **Compliance with Laws, Ordinances and Rules.**
Permittee agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises.

24. **Condition of Premises Inspection.**
Permittee accepts the premises in an "AS IS CONDITION" with no express or implied representations or warranties by Permittor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.
IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of ______________________, 1992.

Upon proper execution, this agreement will be legally valid and binding.

Assistant County Attorney
Date: 7-24-92

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

Mark Andrew
Chairman, Board of Commissioners

Deputy Executive Director

SUBURBAN HENNEPIN REGIONAL PARK DISTRICT

Douglas Bryant
Superintendent

Attorney for Suburban Hennepin Regional Park District
Date: ______________________

Approved as to execution:

Assistant County Attorney
Date: 7-24-92

Judith Anderson
Chair, Board of Commissioners
RESOLUTION NO. 42-HCRA-89

The following resolution was offered by Commissioner Keefe, seconded by Commissioner Spartz:

WHEREAS, Resolution 89R-HCRA-88 authorized staff to negotiate with the Chicago and NorthWestern Transportation Company (CNW) for the purchase of an abandoned railroad right of way together with necessary connections to currently owned Hennepin County Regional Railroad Authority (HCRA) properties, all lying between the cities of Hopkins and Chaska;

BE IT RESOLVED, That the purchase agreement with CNW for acquisition of the railroad right of way between Milepost 19.9 in the City of Hopkins and Milepost 32 in the City of Chaska, Carver County in the maximum amount of $2,700,000 be approved and that the Chairman is authorized to sign the agreement on behalf of the Authority; and that the Deputy Executive Director be authorized to accept the necessary documents to complete the transaction;

BE IT FURTHER RESOLVED, That staff is directed to pursue funding participation from the State of Minnesota Railbank program, State of Minnesota Department of Transportation, City of Eden Prairie, and Carver County Regional Railroad Authority to support the purchase of the CNW right of way.

The question was on the adoption of the resolution and there were 6 YEAS and 0 NAYS as follows:

<table>
<thead>
<tr>
<th>COUNTY OF HENNEPIN</th>
<th>BOARD OF COUNTY COMMISSIONERS</th>
<th>YEAS</th>
<th>NAY</th>
<th>OTHER</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Jeff Spartz</td>
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<td>Randy Johnson</td>
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<td>John Keefe</td>
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<td>Tad Jude</td>
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<td>Mark Andrew</td>
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<td>ABSENT</td>
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<td>Sam S. Sivanich, Chairman</td>
<td>X</td>
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</table>

RESOLUTION ADOPTED JULY 25, 1989

ATTEST: __________________________
Tad Jude, Secretary
HOPKINS TO CHASKA RIGHT OF WAY

CHICAGO AND NORTHERN TRANSPORTATION COMPANY

Parcel 1: Milepost 21-Milepost 32
Length - 11 miles
PRICE $1,750,000

Proposed Sources of Funds:
City of Eden Prairie 250,000
MnDOT 250,000
MN Rail Bank Program 750,000
Carver County Regional Railroad Authority 77,000
HCRRA 423,000

Parcel 2: Milepost 19.9-Milepost 21
Length - 1.1 Miles
PRICE $950,000

Proposed Sources of Funds:
MN Rail Bank Program 475,000
HCRRA 475,000

TOTAL COST TO HCRRA $898,000
$2,700,000
THE GRANTOR, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, whose principal office is located at 165 N. Canal Street, Chicago, Illinois, for the consideration of TEN AND NO/100 ($10.00) DOLLARS, conveys and quitclaims to HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision and local government unit of the State of Minnesota, 2400-A Government Center, Minneapolis, Minnesota 55407, GRANTEE, all interest in the following described real estate situated in the Counties of Hennepin, Carver, and the State of Minnesota, to wit:

HENNEPIN COUNTY, MINNESOTA

Strips of land of varying widths being part of Grantor's railroad right of way from Hopkins to Chaska located in the County of Hennepin, State of Minnesota, including all of Grantor's rights of way and other real property associated therewith, not previously conveyed and not excluded and excepted herein, all as located over, across and upon the following described lands, to wit: Beginning at the South line of Excelsior Avenue in the Southwest Quarter of Section 19, Township 117 North, Range 21 West of the Fifth Principal Meridian; thence extending Southwesterly and continuing across the following described sections:

TOWNSHIP 117 NORTH, RANGE 21 WEST OF THE FIFTH PRINCIPAL MERIDIAN

Section 19 - Southwest Quarter

TOWNSHIP 117 NORTH, RANGE 22 WEST OF THE FIFTH PRINCIPAL MERIDIAN

Section 24 - South Half of the Southeast Quarter

Section 25 - Northwest Quarter of the Northeast Quarter; North Half of the Northwest Quarter

Section 26 - East Half of the Northeast Quarter; Government Lot 4; Government Lot 3; Government Lot 2; Government Lot 1

Section 27 - Southeast Quarter of the Southeast Quarter

Section 34 - Northeast Quarter; West Half of the Southeast Quarter; East Half of the Southwest Quarter

TOWNSHIP 116 NORTH, RANGE 22 WEST OF THE FIFTH PRINCIPAL MERIDIAN

Section 3 - Northwest Quarter

Section 4 - Southeast Quarter of the Northeast Quarter part of which is described in Certificate of Title No. 49402; East Half of the Southeast Quarter

Section 9 - Northeast Quarter; West Half of the Southeast Quarter; Southwest Quarter

Section 16 - Northwest Quarter

Section 17 - East Half of the Northeast Quarter; Southeast Quarter; Southeast Quarter of the Southwest Quarter

Section 20 - Northwest Quarter

Section 19 - Southeast Quarter of the Northeast Quarter; North Half of the Southeast Quarter; Government Lot 3

Section 30 - Government Lot 1; Government Lot 2; Northwest Quarter of the Southwest Quarter.

CARVER COUNTY, MINNESOTA

Strips of land of varying width being part of Grantor's railroad right of way from Hopkins to Chaska located in the County of Carver, State of Minnesota, including all of
Deed No. 86511

Authorization No. 72246

Grantee's rights of way and other real property associated therewith, not previously conveyed and not excluded and excepted herein, as located over, across and upon the following described lands, to wit:

Township 116 North, Range 23 West of the Fifth Principal Meridian

Section 25 - Government Lot 3; Southeast Quarter
Section 36 - Northwest Quarter of the Northeast Quarter;
Northeast Quarter of the Northwest Quarter;
Government Lot 3; Government Lot 4
Section 35 - South Half of the Northeast Quarter; South Half
of the Northwest Quarter; Northwest Quarter of
the Southwest Quarter
Section 34 - Northeast Quarter of the Southeast Quarter;
Northwest Quarter of the Southeast Quarter

thence continuing Southwesterly across the Southwest Quarter of the Southeast Quarter of said Section 34, Township 116 North, Range 23 West of the Fifth Principal Meridian to Grantor's Milepost 32, Section 1157+40, being a line drawn at right angles to Grantor's original main track center line at a point thereon distant 1,245 feet Southwesterly from its intersection with the North line of the Southwest Quarter of the Southeast Quarter of said Section 34.

All according to the Government Survey thereof.

Together with and including all of Grantor's right, title and interest in "as is" condition as of the date of this deed, in and to all bridges and culverts (but not trackage, signal and communication facilities) situated upon said real estate.

Subject to:

(1) Roads and highways, if any.
(2) Covenants, easements, conditions, and restrictions of record.
(3) Rights of any government agency, public or quasi-public utilities to occupy said premises for the use and maintenance of existing conduits, sewers, drains, water mains, gas lines, electric power lines, and other utilities, whether or not of record.

By the acceptance of this conveyance, the Grantee, for itself and/or its heirs, successors, transferees and assigns, hereby agrees

Page 2 of 4 Pages
to, at its sole cost and expense to take all steps necessary to comply with any and all governmental requirements relating to the conveyance of said real estate, including land subdivision or use requirements and payments for any and all transfer taxes or other taxes and fees incidental to the recordation of the deed, except for documentary stamps. In the event Grantee fails to comply with any such requirement and Grantor is obligated so to comply, then Grantee shall be liable for all costs, fees, expenses, interests and judgments against Grantor, and the same shall constitute a lien against said real estate until full payment by Grantee.

Further, this conveyance is made upon the express condition that the Grantor, its successors and assigns, shall have the right to enter upon the above described real estate, for a period of ninety (90) days (weather permitting) from the date of this conveyance or until June 30, 1991, whichever is later, within which to remove all railroad tracks and appurtenances thereto, or any signal and communication facilities from said real estate and adjoining real estate. After said removal, Grantor will make the necessary repair of street, road and highway crossing surfaces.

The Seller certifies that the Seller does not know of any wells on the described real property.

Dated this 20th day of December, 1990.

Signed, Sealed and Delivered in Presence of:

[Signatures]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By [Signature]

[Title]

Attest: [Signature]

[Title]
I, RICHARD S. KENNERLEY, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY that RICHARD B. TAYLOR and ANNE E. KEATING, to me personally known and known to me to be, respectively, Vice President and Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, and the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, respectively, Vice President and Assistant Secretary of said corporation; that as such officers they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public, at Chicago, Illinois, this 20th day of December, 1990.

Notary Public in and for the County of Cook, in the State of Illinois

RICHARD S. KENNERLEY

My Commission Expires: November 8, 1992

This instrument was prepared by Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, Illinois 60605.

L-131-17
AGREEMENT No. 66279

AGREEMENT BETWEEN

HENNEPIN COUNTY REGIONAL

RAILROAD AUTHORITY

AND

THE STATE OF MINNESOTA
AGREEMENT

This Agreement is made by and between the State of Minnesota, acting by and through its Department of Transportation (hereinafter referred to as "MN/DOT"), and the Hennepin County Regional Railroad Authority (hereinafter referred to as "HCRRA").

WITNESSETH THAT:

WHEREAS, pursuant to Minn. Stat. 222.50, Subd. 7.e., The Commissioner of Mn/DOT is authorized to pay, from the Minnesota Rail Service Improvement Account, a portion of the costs of acquiring a rail line by a regional railroad authority established pursuant to Minn. Stat. Ch. 398A; and

WHEREAS, HCRRA is established as a regional rail authority pursuant to Minn. Stat. Ch. 398A, and has received a certificate of incorporation from the Secretary of State; and

WHEREAS, MN/DOT is interested in preserving a rail line including the railroad bed, right-of-way, and other appurtenances of railroad right-of-way, including public use sidings, and railroad buildings from milepost 19.9 (approximately) to milepost 32.0 from Hopkins to Chaska, and from milepost 19.9 to milepost 21.0 in Hopkins, hereafter referred to as the "Line", for possible continued transportation purposes; and

WHEREAS, the Interstate Commerce Commission has authorized the abandonment of the Line and the Chicago and North Western Transportation Company intends to cease rail service on the Line; and

WHEREAS, HCRRA has reached agreement to acquire the Line pursuant to Minn. Stat. 398A.04, Subd. 1(b) for continuation of transportation service,

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES:

Pursuant to the following terms and conditions, MN/DOT will provide to HCRRA up to 50% of the cost of acquiring the Line, not to exceed $1,225,000.00.
ARTICLE I. Use of Funding

The funds provided by MN/Dot to HCRRA hereunder shall be used exclusively for acquisition of the Line. Should the HCRRA fail to use the property for transportation purposes within 20 years from the date this agreement is entered into. The HCRRA shall return to the state the sum of $1,225,000.00 used to purchase the line or 50% of the then value of the property, which ever is greater.

ARTICLE II. Notifications.

The HCRRA shall notify MN/DOT through its Director of the Office of Railroads and Waterways in writing at least 30 days before the effective dates of the following agreements, events or arrangements:

1. All contract agreements, or amended agreements, with any party for rail operations, maintenance and management or sale of the Line or portion of the Line;

2. The receipt of the final payment of any Agreement of Sale embodying the HCRRA's sale of the railroad assets; and

3. Changes in HCRRA organizational structure, address, telephone number, and chairman.

In the event that HCRRA decides to change the Line from transportation to non-transportation use or to sell, trade or abandon the Line, HCRRA shall notify MN/DOT no later than 180 days prior to implementation of that decision. Nothing in this section shall relieve HCRRA of the obligations set out in Article III of this agreement.

ARTICLE III. Disposition of Line.

For the purposes of Article III of this Agreement the reference "Line" refers to the entire Line or any portion thereof.

Section 1. HCRRA shall have the right to enter into an agreement to sell the Line as long as the terms of the agreement to sell include the following provisions:

a. The sale of the Line will be complete no sooner than 20 years from the date of this agreement.

b. Any provision for prepayment of the purchase price or any part thereof will be subject to MN/DOT approval.
c. MN/DOT and all contributors to the initial acquisition of the Line by MN/DOT shall receive payment pursuant to Article III, Section 4 of this Agreement prior to the effective date of the transfer of title to the Line from HCRRA to the purchaser.

d. HCRRA shall retain the title to the Line until c. above is complete.

e. The purchaser shall neither assign nor transfer any rights or obligations under the Agreement to sell by HCRRA without the prior written consent of HCRRA and MN/DOT.

f. Any sale agreement shall be subject to MN/DOT review and approval.

Section 2. If the Line is not sold pursuant to Article III, Section 1, and it is to be otherwise sold, traded, abandoned; or if HCRRA ceases to exist, MN/DOT shall have the first option to buy the Line pursuant to the procedures of the State Rail Bank Program, Minn. Stat. 222.63 and 14 MCAR 1.4010-1.4016.

   a. MN/DOT's cost shall be no more than 50% of the then value of the line or equal to the percentage of their investment in the initial acquisition of the Line, plus the cost of any value added improvements to the line.

Section 3. The following shall govern under MN/DOT's option to buy the Line:

   a. Under MN/DOT's option, MN/DOT and HCRRA will attempt to negotiate a purchase price. If a purchase price cannot be agreed upon, each party will appoint an arbitrator. The two arbitrators will select a third arbitrator and the two parties shall share equally the cost of the arbitration panel. The panel of arbitrators will consider the positions of both parties and will recommend a reasonable purchase price.

   MN/DOT may then purchase the property at the arbitrator's recommended purchase price. If MN/DOT decides not to purchase at the recommended purchase price, it retains the right to purchase the Line at the same price which is agreed upon by HCRRA and the next bona fide prospective purchaser of the Line.
b. In the event that MN/DOT does not purchase the Line under the procedures in 3a. and HCRRRA receives a bona fide offer to purchase the Line and HCRRRA agrees to accept the offer, MN/DOT shall have a right to purchase the Line for the same amount. This right to purchase requires that HCRRRA notify MN/DOT of its decision to sell and of the terms and conditions of the bona fide offer. MN/DOT shall then have 30 days to accept an offer to sell for the same amount as set forth in the bona fide offer to purchase.

If MN/DOT agrees to purchase the Line, it will have a reasonable period of time not to exceed one year to obtain the financial encumbrance to complete the purchase. If MN/DOT fails to exercise this option to purchase, HCRRRA is free to accept the bona fide offer.

Section 4. Any agreement between the HCRRRA and any purchaser shall include a specific time frame and schedule indicating how MN/DOT and all contributors to the initial acquisition of the Line shall be paid. MN/DOT's share of the sale, and that of all the contributors, shall be at a percentage equal to the percentage of their investment in the initial acquisition of the Line.

Section 5. All agreements between the HCRRRA and any other parties participating in the purchase of the Line shall include provisions recognizing MN/DOT's rights pursuant to Article III, Sections 1, 2, 3, 4 and Article IV of this Agreement.

ARTICLE IV. Indebtedness of Loan

The indebtedness of the Loan shall be evidenced by this Loan Agreement and by separate mortgage agreement which shall be recorded with the appropriate county or counties.

ARTICLE V. Conditions of Payment.

MN/DOT will provide the HCRRRA with the funding provided herein upon receipt of an acceptable final purchase agreement with the Chicago and North Western Transportation Company that has been approved by the HCRRRA and all other participants in the purchase. In addition, the HCRRRA shall also notify MN/DOT in writing of the actual purchase price, the names of all contributors to the purchase and the amount contributed by each party, and shall provide copies of all agreements with such contributors. Prior to release of MN/DOT's funding, HCRRRA shall also verify to the satisfaction of MN/DOT that all contributors to the purchase price are bound by the conditions of Article III, Sections 1, 2, 3, 4 and Article IV of this Agreement.
ARTICLE VI. State and Federal Laws Applicable.

The HCRRA shall comply with and enforce all applicable state and federal laws relating to the acquisition and operation of the Line by itself and its contractors, lessees and agents including but not limited to Minn. Stat. 222.64.

ARTICLE VII. Effective Date of Contract.

This agreement shall be effective when executed by all parties or upon such date as it is executed as to encumbrance by the Commissioner of Finance, whichever occurs later.

ARTICLE VIII. Assignment.

The HCRRA shall neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of MN/DOT.

ARTICLE IX. Amendments.

Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement, or their successors in office.

ARTICLE X. Liability.

HCRRA agrees to defend, indemnify and save, and hold MN/DOT, its agents and employees, harmless from any and all claims or causes of action arising from the performance of this Agreement by the HCRRA or its agents or employees and from the ownership, operation and maintenance of the Line by the HCRRA.

ARTICLE XI. State Audits.

The books, records, documents, and accounting procedures and practices of the HCRRA relevant to this Agreement shall be subject to examination by the MN/DOT's auditors, the state auditor, and the legislative auditor.
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, intending to be bound thereby.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By Mark Andreas
Title: Chair, HCRRA
Date: 5-8-91

By
Title:
Date:

MINNESOTA DEPARTMENT OF TRANSPORTATION

By Daryl E. Peifker
Title: Asst Commr
Date: 6/4/91

As to Form and Execution by the Attorney General:

By
Date:

COMMISSIONER OF ADMINISTRATION

By
Date: JUN 10 1991

COMMISSIONER OF FINANCE

By
Date: By Gerald T. Joyce

Approved as to Form

By
Title: Asst Henn. Co. Attorney
Date: 4-26-91

By
Date:

Original Signed by,

JAN HOFER

Date:
STATUTORY MORTGAGE AND ASSIGNMENTS OF RENTS

THIS STATUTORY MORTGAGE AND ASSIGNMENT OF RENTS (the "Mortgage"), made this 17TH day of May, 1991, between the Hennepin County Regional Rail Authority, a Minnesota Political corporation, with an address in care of Mark Andrew, Chairman Hennepin County Regional Railroad Authority, A-2307 Government Center, Minneapolis, Mn55487.0237, hereinafter (whether one or more in number) called the "Mortgagor" and the State of Minnesota acting through its Department of Transportation, hereinafter called the "Mortgagee",

WITNESSETH:

To secure the payment of One Million Two Hundred Twenty Five Thousand and No/100 (1,225,000.00) DOLLARS, without interest, according to the terms of that certain Loan Agreement bearing even date herewith between the Mortgagor and Mortgagee (hereinafter called the "Debt"):

Mortgage. Mortgagor hereby mortgages to Mortgagee the tracts of land lying in the County of Hennepin, State of Minnesota, legally described on Exhibit A hereto, subject to liens, encumbrances, and defects of title of record;

Assignment of Rents. Mortgagor hereby assigns to the Mortgagee all rents and profits due or to become due with respect to the mortgaged premises, whether before or after foreclosure or during any redemption period after a sheriff's foreclosure sale, provided that mortgagee hereby consents to all existing and hereafter arising leases of the mortgaged premises so that the same shall survive the foreclosure of this mortgage (and the taking by the mortgagee of a deed in lieu thereof) provided that:

1. The terms of leases hereafter arising do not exceed five (5) years; and

2. Rental under such leases are not prepaid for a period of more than one (1) year.
1. Statutory Covenants. Mortgagor makes and includes in this Mortgage the statutory covenants and other provisions set forth in Minnesota Statutes Section 507.15 or in any future Minnesota Statute providing for a statutory form of real estate mortgage and, the Mortgagor covenants with the Mortgagee the following additional covenants:

(a) To pay the indebtedness as herein provided;

(b) To pay all taxes.

(c) That the premises shall be kept in repair and no waste shall be committed.

(d) That the whole of the principal sum shall be come due after default, in the payment of any installment of principal or interest, or of any tax, or in the performance of any other covenant, at the option of the Mortgagor.

2. Events of Default/Acceleration of Maturity. Mortgagor agrees that at the option of the Mortgagee and in addition to Mortgagee's right to accelerate the maturity of the indebtedness secured hereby as set forth above in the Statutory Covenants, the entire remaining principal balance plus accrued interest shall become due and payable in full upon the occurrence of any of the following (each of which is herein referred to as an "Event of Default"):

(i) Failure by mortgagor to make any payment on the Debt when due; or

(ii) The default by Mortgagor in the performance of other covenants or agreements contained herein or in the Debt; or

(iii) Any default under the terms of any security agreement, loan agreement, or any other writing securing or governing the repayment of the Debt; or

(iv) The bankruptcy or insolvency of the Mortgagor; or

(v) The transfer of title of the property securing this Mortgage and described in Exhibit A by the mortgagor to any third party.

3. Statutory Power of Sale, Waiver and Agreement. At maturity, whether at the stated time or prior thereto by the acceleration of maturity pursuant thereto, Mortgagee (in addition to any other remedies provided for herein or which it may have at law or equity) shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorneys' fees.
MORTGAGOR HEREBY: EXPRESSLY CONSENTS TO THE FORECLOSURE AND SALE OF THE MORTGAGED PREMISES BY ADVERTISEMENT PURSUANT TO MINNESOTA STATUTES CHAPTER 580, WHICH PROVIDES FOR SALE AFTER SERVICE OF NOTICE THEREOF UPON THE OCCUPANT OF THE MORTGAGED PREMISES AND PUBLICATION OF SAID NOTICE FOR SIX WEEKS IN THE COUNTY OF MINNESOTA WHERE THE MORTGAGED PREMISES IS SITUATED; ACKNOWLEDGES THAT SERVICE NEED NOT BE MADE UPON MORTGAGOR PERSONALLY (UNLESS MORTGAGOR IS AN OCCUPANT) AND THAT NO HEARING OF ANY TYPE IS REQUIRED IN CONNECTION WITH THE SALE; AND EXPRESSLY WAIVES ANY AND ALL RIGHT TO PRIOR NOTICE OF SALE OF THE MORTGAGED PREMISES AND ANY AND ALL RIGHTS TO A PRIOR HEARING OF ANY TYPE IN CONNECTION WITH THE SALE OF THE MORTGAGED PREMISES.

4. Miscellaneous. This Mortgage shall be governed by and construed in accordance with the laws of the State of Minnesota and shall inure to the benefit of Mortgagee, its successors and assigns. In the event any provision hereof is determined to be unenforceable or invalid shall be deemed severed from this Mortgage and the remaining provisions carried out with the same force and effect as if the severed provisions or part thereof had not been made a part hereof.

Mortgagor or its assigns shall have the right to enter into leases of the mortgaged properties the estates of which shall be prior and superior in all respects to the lien of this Mortgage.

Hennepin County Regional Railroad Authority
a Minnesota political corporation

By Mark Andrews
Its Chairman
STATE OF MINNESOTA  )
COUNTY OF __________ ) ss

The foregoing instrument was acknowledged before me this _____
day of ______________, 1991, by __________________________
the Attorney for the Hennepin County Regional Railroad Authority, a
Minnesota political Corporation, on behalf of the corporation.

Notary Public
STATE OF MINNESOTA

COUNTY OF HENNEPIN

On this 17 day of May, 1991, before me appeared Mark Andrew and Vern T. Gezlinger to me personally known, who being by me duly sworn, did say they are respectively Chairman and Deputy Executive Director of Hennepin County Regional Railroad Authority.

RECIPIENT

By

Title Deputy Executive Director

By

Title Chairman

Donald A. Lawrence

NOTARY

DONALD A. LAWRENCE
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 2-28-94
Cedar Lake Trail
RESOLUTION NO. 18-HCRR-94

The following resolution was offered by Commissioner Andrew, seconded by Commissioner Staples:

WHEREAS, Resolution 51-HCRR-93 directed Hennepin County Regional Railroad Authority (HCRR) staff to cooperate with the City of Minneapolis and the Minneapolis Park and Recreation Board to develop an agreement for HCRR participation in the Cedar Lake Bike Trail; and

WHEREAS, the City of Minneapolis has developed plans and has obtained federal funding (ISTEA) to support construction of the bike trail; and

WHEREAS, the City of Minneapolis and the Minneapolis Park and Recreation Board will provide local matching funds and assume all maintenance and operating responsibilities,

BE IT RESOLVED, that Permit Agreement No. A09304, between the Hennepin County Regional Railroad Authority (HCRR) and the City of Minneapolis providing for use of HCRR property between Lyndale Avenue and Seventh Street in the City of Minneapolis for a bicycle trail, in the receivable amount of $1.00 annually, be approved and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were ___ YEAS and ___ NAYS as follows:

BOARD OF COMMISSIONERS
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

YEA    NAY    OTHER

Mike Opat                   X
Mark Andrew                 X
Peter McLaughlin           X
Randy Johnson               X
John Keefe                  X
Emily Anne Staples          X
Sandra Hilary, Chair        X

RESOLUTION ADOPTED APRIL 5, 1994

ATTEST: [Signature]
Randy Johnson, Secretary
Permit Agreement

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, a Minnesota political subdivision, ("Permittor") and the Public Works and Engineering Department of the City of Minneapolis ("Permittee") a political subdivision.

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Premises

Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way, in the City of Minneapolis, as delineated and colored green on HCRRA Property Maps numbered 9, and 10 and 11 and attached hereto as Exhibit A.

A more complete legal description will be prepared upon the completion of construction of the bike trail, and will replace and supersede the above description.

The said real estate shall be hereinafter described as the "Premises."

2. Uses

The Premises shall be for the temporary use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes. Permittor reserves the right to limit, reject or refuse to permit the use of the Premises by Permittee or any subpermittees for any purpose which Permittor, in its sole discretion, deems inappropriate or incompatible with its future use of the Premises or the operations of the Chicago Northwestern Transportation company or any other railroad operating on the right of way adjacent to the Premises. Permittee shall submit any proposed development or other physical alterations to the Premises to Permittor to determine
its acceptability to Permitter prior to contracting any obligations or commitments in
collection therewith.

3. Term

The term of this Permit shall be for an indefinite period, commencing on
execution of this Agreement by the Chair of the Hennepin County Regional Railroad
Authority until termination in accordance with Paragraph 4.

4. Termination

Either party may, at any time and for any reason, terminate this Permit by
giving thirty (30) days' written notice of its intention to do so. Such notice may be
served upon the Hennepin County Regional Railroad Authority by delivering a copy
thereof to the Executive Director at the principal office in the Hennepin County
Government Center, Minneapolis, Minnesota, 55487, or by depositing the same in
the United States Post Office directed to the Executive Director at the principal
office. Such notice may be served on the Public Works and Engineering Department
of the City of Minneapolis by delivering a copy thereof to Room 203, City Hall, 350
South Fifth Street, Minneapolis, Minnesota 55415. Except as provided herein, this
Agreement may not be terminated or revoked by either party hereto.

5. Temporary Nature of Use

Permittee acknowledges that the Premises was acquired by Permitter
specifically and solely for the purpose of constructing a light rail transit system or
other permitted transportation uses and its associated facilities and that it is
Permitter's intention to allow Permittee to use the Premises only until it is needed
for that purpose. Nothing in this Permit shall be deemed to evidence any change by
Permittee of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Permittee has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination

On the expiration of thirty (30) days after such service of said notice, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. Permittee shall, without further notice or demand, deliver possession of the Premises to the Permittee at the expiration of said thirty (30) days and shall, before the expiration of said thirty (30) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Permittee, cease and Permittee's interest thereto shall be forfeited and at the same time shall belong to Permittee or, in such case, if the Permittee shall elect, it may, at any time after the expiration of said period of thirty (30) days, tear down and/or remove any or all such buildings and property at the expense of Permittee without any liability for damages thereof in any respect whatsoever and Permittee shall thereupon promptly reimburse Permittee for all expenses incurred by it in doing so.

7. Rent

Upon any such termination of this Permit, rent shall be paid by the Permittee to the date of termination fixed by said notice at the rate of $1.00 per year.
8. **Subpermits**

   Permittee may grant permits to subpermittees only upon written agreement of Permittor. Any subpermit shall be on the same terms and conditions and for the same uses as are contained in this Permit.

9. **Signage**

   Permittee shall provide, install and maintain signage, including kiosks, on the Premises identifying that the Premises are being used by the Minneapolis Public Works and Engineering Department by permission of the owner, the Hennepin County Regional Railroad Authority, until the Premises are used for light rail transit or other transportation uses.
10. **Nuisance, Waste**

Permittee shall not permit the existence of any nuisance on said Premises. Permittee, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting Permittee's business and use and occupation of said Premises. Permittee, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that Permittee may post on appropriate structures, informational materials relating to the permitted uses. Permittee shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

11. **Utilities, Title, Existing Rights of Others**

Permittee accepts said Premises subject to the rights of any person, firm or corporation, including the Permittor in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of Permittee's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, Permittee shall bear and pay the cost of so doing.

Permittee also accepts said Premises subject to any want or failure at any time of Permittor's title to said Premises or any part thereof and Permittee shall assume any damages sustained by Permittee in connection therewith. Permittee also accepts such Premises subject to rights of any party, including Permittor, in and to any
roadways, easements, leases and permits, whether granted, at Permittee's sole discretion, either prior to or after the date of this Permit Agreement. Permittee agrees to provide to Permittee or other tenants of Permittee access over and through the Premises on these roadways and easements should such access be deemed necessary by Permittee. Permittee accepts said Premises subject to the right of Permittee, its employees, agents, permittees, lessees, and contractors when reasonably necessary to walk upon said Premises to repair adjacent property and the right of Permittee, its employees, agents, permittees, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon Permittee's property.

12. **Indemnification**

   Permittee shall defend, indemnify and hold harmless Permittee, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of Permittee, its agents, employees, customers, invitees, subpermittees, permittees, lessees or other occupiers of the Premises.

   Permittee shall not be liable to Permittee or those claiming by, through, or under Permittee for any injury, death or property damage occurring in, on or about the Premises based upon the construction, operation or maintenance of the Premises by Permittee or any subpermittee, nor for the loss or damage by reason of the present or future condition of repair of the Premises, or for the loss or damage
arising from the acts or omissions of Permittee, its agents, employees, customers, 
invitees, subpermittees, permittees, lessees, or other occupiers of the Premises.

13. **Insurance**

   Permittee further agrees that if in any case the release and indemnity provided 
in this section shall not be valid, Permitor shall have the full benefit of any 
insurance effected by the Permittee upon the property injured, destroyed or damaged 
and/or against the hazard involved; and Permittee agrees that any and all such 
insurance shall be so written that the insurer shall have no claim or recourse of any 
kind whatsoever against Permitor in connection therewith.

14. **Covenant**

   Permittee, in consideration of the permitting of the said Premises, as herein 
provided, hereby covenants and agrees to pay the rent therefor promptly, as above 
provided, and fully to abide by and perform all and singular the conditions, covenants 
and agreements herein contained and to be observed and performed by said 
Permittee and to yield up said Premises unto the Permitor at the expiration or 
termination of the Permit Agreement in as good condition as when entered upon.

15. **Quiet Enjoyment**

   Permitor has the right and authority to enter into this Agreement and if 
Permittee pays the rent required hereby and otherwise performs the terms hereof to 
be performed by Permittee, Permitor shall, during the term hereof, be entitled to 
quiet enjoyment and possession of the Premises subject to the termination provisions 
hereof. Notwithstanding the foregoing, Permittee acknowledges that the rights 
provided to it by virtue of the Permit are subject to the provisions of Paragraph 11.
16. Waiver

No receipt of money by Permittor from Permittee after any default by Permittee or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of Permittee shall be implied from omission by Permittor to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

17. Breach

It is further agreed between the parties hereto, that if the said Permittee shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after Permittee's receipt of written notice thereof from Permittor, then it shall be lawful for the Permittor, then or at any time thereafter, to declare this Permit ended, and to re-enter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 4; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or
agreements, or the right of Permittor thereafter to avail itself of same and any subsequent breach thereof. In the event Permittor has to take action for repossession of said property, Permittee, its assigns or heirs shall be liable for reasonable attorney’s fees incurred by Permittor.

18. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the Permittee unless specifically stated herein. Permittor reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the Permittee or person occupying the Premises during the term of this Permit or any renewal thereof.

19. Improvements, Maintenance

Permittee shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises. Permittee shall also be responsible for the construction of all bridges and crossings deemed necessary for Permittee to provide for any trails on the Premises or to otherwise use the Premises. Construction plans, if any, shall be submitted to the Permittor for review and comment. Permittor reserves the right to reject any plans for construction proposed by Permittee on the grounds, in Permittor’s sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of the Chicago and Northwestern
Transportation Company or other railroad operating on the right of way adjacent to the Premises.

20. **Environmental Concerns**

Permittee shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. Permittee shall bear the expense of all practices or work, preventative, investigatory or remedial, which may be required because of any conditions of the Premises introduced by Permittee, subpermittees or invitees during Permittee's period of use, including conditions introduced by Permittee, subpermittees, or invitees which affect other lands. Permittee expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. Permittee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Permittee discovers any such health or environmental impairment, and Permittee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Permittee shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Permittee may enter the Premises during regular business hours of Permittee without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of Permittee or without if Permittee reasonably believes that an emergency exists on the Premises. Permittee shall conduct any such inspections or testing so as to minimize interference with Permittee's operations.
Permitter’s entry on to the Premises pursuant to this paragraph shall not relieve the Permittee’s obligation to pay rent under this Permit.

In addition to the foregoing provisions of this Paragraph 20, and in exchange for the rights and privileges granted in this Permit Agreement, Permittee hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for Permittee’s use of the Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Further, Permittee agrees to defend, indemnify and hold harmless Permitter, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney’s fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Permittee expressly agrees that the obligations it hereby assumes shall survive the cancellation of this Permit.

21. Compliance with Laws, Ordinances and Rules

Permittee agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the
Premises. Permittee agrees to comply with rules as may be promulgated from time to time by Permittor.

22. **Condition of Premises Inspection**

   Permittee accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Permittor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

   Permittee acknowledges and assumes all risks associated with the proximity of the Premises to the railroad right of way adjacent to the Premises and to any railroad operations thereon including, but not limited to, operations of The Chicago and Northwestern Transportation Company.

23. **Liens and Encumbrances**

   Permittee shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by Permittee, its agents, employees, customers, invitees, subpermittees, lessees or other occupiers of the Premises pursuant to this Permit.
IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of __________________________, 1994.

Upon proper execution, this agreement will be legally valid and binding.

Assistant County Attorney
Date: 3-7-94

Hennepin County Regional Railroad Authority

[Signature]
Chair, Board of Commissioners
Date: __________________________

Executive Director
Date: __________________________

City of Minneapolis

[Signature]
Mayor
Date: 2/28/94

Approved as to execution:

Assistant County Attorney
Date: 3-7-94

City Finance Officer
Date: 2/28/94

ATTESTED BY:

City Clerk

[Signature]
Kenilworth Trail
RESOLUTION NO. 46R1-HCRRA-98

The following resolution was offered by Commissioner Andrew, seconded by Commissioner Stanglein:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRRA) owns property known as the Kenilworth Corridor running between the 29th Street Rail Corridor and the Burlington Northern Santa Fe (BNSF) main line north of Cedar Lake; and

WHEREAS, the City of Minneapolis (City) desires to construct a recreational trail between the proposed 29th Street Greenway Trail and the existing Cedar Lake Trail; and

WHEREAS, the City desires to enter into a permit agreement with the HCRRRA for the purpose of constructing and maintaining a recreational trail in the Kenilworth Corridor,

BE IT RESOLVED, that Permit Agreement 73-31016 with the City of Minneapolis for recreational trail purposes, which includes standard Hennepin County liability language, be approved, and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were _7_ YEAS and _0_ NAYS as follows:

<table>
<thead>
<tr>
<th>BOARD OF COMMISSIONERS</th>
<th>YEA</th>
<th>NAY</th>
<th>OTHER</th>
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</thead>
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<tr>
<td>HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY</td>
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<tr>
<td>Mike Opat</td>
<td>X</td>
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<tr>
<td>Mark Stanglein</td>
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<tr>
<td>Mark Andrew</td>
<td>X</td>
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<tr>
<td>Peter McLaughlin</td>
<td>X</td>
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<td>Randy Johnson</td>
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<td>Penny Steele</td>
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<td>Mary Tambornino, Chair</td>
<td>X</td>
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</table>

RESOLUTION ADOPTED AUGUST 18, 1998

ATTEST: [Signature]
Mark Andrew, Secretary
PERMIT AGREEMENT
KENILWORTH TRAIL

Parcel 71-51016

THIS AGREEMENT, entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision, ("Permitter"), and the City of Minneapolis ("Permittee") a political subdivision.

WITNESSETH:

WHEREAS, the Hennepin County Regional Railroad Authority (Permitter) has invested in a transportation corridor between the City of Hopkins and the City of Minneapolis known as the Hopkins to Minneapolis Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, a portion of the Corridor extends from the westerly limits of the City of Minneapolis to downtown Minneapolis (the Kenilworth Route).

WHEREAS, the City of Minneapolis (Permittee) has applied and received approval for an ISTEA grant for construction of a bicycle trail (the Kenilworth Trail) within the Minneapolis portion of the Permitter Corridor as more fully set forth in the Kenilworth Trail plan dated October 23, 1997. The Kenilworth Trail plan extends north from the 29th Street Greenway to the Cedar Lake Trail. Both the 29th Street Greenway and the Cedar Lake Trail are Permittee's trails also located by permit on Permitter's right of way which has been acquired for future LRT and other permitted transportation uses.

WHEREAS, the Soo Line Railroad Company and Twin Cities and Western Railroad Company have railroad operating rights over Permitter owned tracks located on the Kenilworth Route.

WHEREAS, the Permittee and Permitter desire to enter into an agreement for the use of the Kenilworth Route for trail purposes jointly with use of the Corridor for rail traffic and future LRT and other transportation purposes.

In consideration of the covenants by and between the parties, IT IS HEREBY AGREED:

1. PREMISES

Permitter hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property located in the City of Minneapolis, Minnesota,
described as follows:

Hennepin County Regional Railroad Authority property, marked in green, as shown on the construction plans for the Kenilworth Trail and attached hereto as, Exhibit "A"

The said real estate shall be hereinafter described as the "Premises."

2. USES

The Premises shall be for the temporary use of Permittee, its agents, officers, employees, and invitees for trail purposes and for all uses and requirements necessary to the enjoyment of the Premises for said uses. Permittee reserves the right to limit, reject or refuse to permit the use of the Premises by Permittee or any assignees for any purpose which Permittee, in its sole discretion, deems inappropriate or incompatible with its future use of the Premises or the operations of any railroad operating on the right of way adjacent to the Premises. Permittee shall submit any proposed development or other physical alterations to the Premises to Permitor to determine its acceptability to Permitor prior to contracting any obligations or commitments in connection therewith.

3. TERM

The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 4.

4. TERMINATION

Either party may at any time terminate this permit by giving ninety (90) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director of the principal office in the Hennepin County Government Center, Minneapolis, Minnesota 55447, or by depositing the same in the United States Post Office directed to the Executive Director of the principal office. Such notice may be served on the Director, Transportation Division, Minneapolis Department of Public Works, City of Minneapolis, by delivering a copy thereof to room 235, City Hall, 350 South Fifth Street, Minneapolis, MN 55415. Except as provided herein, this agreement may not be terminated or revoked by either party hereto.

5. TEMPORARY NATURE OF USE

Permittee acknowledges that the Premises was acquired by Permitor specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Permitor's intention to allow Permittee to use the Premises only until, in Permitor's sole discretion, it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Permittee of its intended use of the Premises for light rail transit purposes or
other permitted transportation uses. Rather, Permittee has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. RIGHTS UPON TERMINATION

On the expiration of ninety (90) days after such service of said notice, this Permit and all rights henceforth shall thereupon terminate and be at an end, saving and excepting such rights and obligations as may have accrued to either party henceforth prior to such termination. Permittee shall, without further notice or demand, deliver possession of the Premises to the Permittee at the expiration of said ninety (90) days and shall, before the expiration of said ninety (90) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove all buildings its right shall, at the option of the Permittee, cease and Permittee’s interest thereto shall be forfeited and at the same time shall belong to Permittee or, in such case, if the Permittee shall elect, it may, at any time after the expiration of said period of ninety (90) days, tear down and/or remove any or all such buildings and property at the expense of Permittee without any liability for damages thereof in any respect whatsoever, and Permittee shall thereupon promptly reimburse Permittee for all expenses incurred by it in doing so.

7. RENT

Upon such termination of this permit, rent shall be paid by the Permittee to the date of termination fixed by said notice at the rate of $1.00 per year.

8. OTHER USERS

Permittee hereby acknowledges the presence and use of the adjacent property for railroad purposes by the Soo Line Railroad Company and other users, including without limitation, Permittee and the Twin Cities and Western Railroad. Permittee agrees to coordinate activities with the adjacent railroad use to avoid disrupting or otherwise adversely affecting continued railroad use.

9. SIGNAGE

Permittee shall maintain signage identifying the Hennepin County Regional Railroad Authority as the owner of the Premises and that the Premises are reserved for light rail transit or other future transportation uses. Any such signage must receive the prior approval of Permittee.

10. NUISANCE

Permittee shall not permit the existence of any nuisance on said Premises. Permittee, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting Permittee’s business and use and occupation of said Premises. Permittee, at its sole cost, shall
make any and all improvements, alterations, repairs and additions and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that Permittee may post on appropriate structures, informational materials relating to the permitted uses. Permittee shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary. This provision may be enforced by and runs to the benefit of only the Permittor, its successors and assigns. The Permittee does not, in any way, waive any of the immunity provided by Minnesota Statutes, Chapter 466 or by other law.

11. UTILITIES, TITLE

Permittee accepts said Premises subject to the rights of any person, firm or corporation, including the Permittor in and to any existing water, sewer, gas, electrical power, telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it at any time become necessary, because of Permittee's use of the Premises, to relocate any of said utilities or facilities by reason of this Permit, Permittee shall bear and pay the cost of so doing.

Permittee also accepts said Premises subject to any want or failure at any time of Permittor's title to said Premises or any part thereof and Permittee shall assume any damages sustained by Permittee in connection therewith. Permittee also accepts such Premises subject to rights of any party, including Permittor, in and to any existing roadways and easements, leases and permits, whether or not granted, at Permittor's sole discretion, either prior to or after the date of this Permit Agreement. Provided, however, that the Permittee shall not grant an easement, lease or permit after the date of this Agreement which substantially impairs the intended use of this permit (except as provided in Paragraph 4). Permittee agrees to provide to Permittee, or other tenants of Permittee, access over and through the Premises on these roadways and easements should such access be deemed necessary by Permittee. Permittee accepts said Premises subject to the right of Permittee, its employees, agents and contractors to walk upon said Premises to repair adjacent property and the right of Permittor, its employees, agents, and contractors to temporarily place equipment upon the property at Permittee's own responsibility and risk for the purpose of maintaining, repairing or inspecting or constructing upon Permittee's adjacent property.

12. INDEMNIFICATION

Permittee shall defend, indemnify and hold harmless the Permittee, its Commissioners, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act or omission of the Permittee, its agents, anyone directly or indirectly employed by them, customers, invitees, other occupiers of the Premises and/or anyone for whose acts and/or omissions they may be liable.

Permittee shall not be liable to Permittee or those claiming by, through, or under Permittee
for any injury, death or property damage occurring in, on, or about the Premises based upon the
construction, operation on, use, or maintenance of the Premises by Permittee (including those liabilities
related to railroad operations adjacent to the Premises), nor for any loss or damage by reason of the
present or future condition of repair of the Premises, or for the loss or damage arising from the acts or
omissions of Permittee, its agents, anyone directly or indirectly employed by them, customers,
vendors, invitees, or other occupiers of the Premises.

Nothing is intended or should be construed as creating or establishing Permittee or
Permittee's contractors, agents, employees, customers, invitees, vendors, or other occupiers of the
Premises as copartners, agents, representatives or employees of the Permittee.

Permittee represents that it has or will secure at its own expense all personnel, consultants,
vendors or other persons necessary for its use of the Premises. Any and all personnel, consultants,
vendors, or other persons used by Permittee shall have no contractual relationship with the Permittee
and shall not be considered employees of the Permittee. Any and all claims that may or might arise
under the Unemployment Compensation Act or the Workers Compensation Act of the State of Minnesota
on behalf of said personnel, consultants, vendors, or other persons arising out of employment or
alleged employment, including, without limitation, claims of discrimination against Permittee, its
officers, agents, contractors, or employees shall in no way be the responsibility of the Permittee.
Permittee shall defend, indemnify and hold the Permittee, its Commissioners, officers, agents, and
employees harmless from any and all such claims irrespective of any determination of any pertinent
tribunal, agency, board, commission, or court. Such personnel or other persons shall neither require nor
be entitled to any compensation, rights or benefits of any kind whatsoever from the Permittee, including,
without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers
Compensation, Unemployment Insurance, disability, severance pay and PERA.

13. INSURANCE

The Permittee represents that it has a program of risk management for managing its
potential liability and is certified as a self insurer for the purposes of Minnesota Statute; Chapter 65B.
The City agrees that it shall be responsible for its losses pursuant to law, will maintain a program of
risk management, and a program of self insurance when such self insurance is required by law.

14. COVENANTS

Permittee, in consideration of the permitting of the said Premises, as herein provided,
hereby covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide by
and perform all and singular the conditions, covenants and agreements herein contained and to be
observed and performed by said Permittee, and to yield up said Premises unto the Permittee at the
expiration or termination of this Permit Agreement in as good conditions as when entered upon.

15. QUIET ENJOYMENT
Permittee has the right and authority to enter into this agreement, and if Permittee pays the rent required hereby and otherwise performs the terms hereof to be performed by Permittee, Permittee shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof and the close proximity of the premises to railroad operations. Notwithstanding the foregoing, Permittee further acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 11 and as otherwise limited by the terms of this Permit.

16. WAIVER

No receipt of money by Permittee from Permittee after any default by Permittee, or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of Permittee shall be implied from omission by Permittee to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

17. BREACH

It is further agreed between the parties hereto that if the said Permittee shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after Permittee’s receipt of written notice thereof from Permittee, then it shall be lawful for the Permittee, then, or at any time thereafter, to declare this Permit ended, and to reenter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above-specified in the case of termination at the end of ninety (90) days notice; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant, or agreements, or the right of Permittee thereafter to avail itself of same and any subsequent breach thereof. In the event Permittee has to take action for repossessing of said property, Permittee, its assigns, or heirs, shall be liable for reasonable attorney's fees incurred by Permittee.

18. ASSIGNMENT

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leses, successors, or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used, or occupied by any party other than the Permittee unless specifically stated herein. Permittee reserves the right to review and revise the rental applicable to this Permit upon any change in the status of this Permit, the Permittee, or person occupying in the Premises, during the term of this Permit or any renewal thereof.
19. IMPROVEMENTS, MAINTENANCE, LIENS AND ENCUMBRANCES

Permittee shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises, and all rail operations on the Premises. Permittee shall also be responsible for the construction of all bridges and crossings deemed necessary for Permittee to provide for any trails on the Premises or to otherwise use the Premises. Construction plans shall be submitted to the Authority for review and comment. Authority reserves the right to reject any plans for construction proposed by Permittee on the grounds, in Authority’s sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of any railroad operating on the right of way adjacent to the Premises.

Permittee shall not permit any liens or encumbrances to be established or to remain against the Premises. Liens or encumbrances for purposes of this section mean any mortgage, pledge, security interest, lien, or encumbrance on (or affecting) any portion of the Premises, including, without limitation, tax liens or encumbrances and liens or encumbrances with respect to work performed or equipment or material furnished in connection with Permittee’s use of the Premises.

20. ENVIRONMENTAL CONCERNS

Permittee shall not create or permit any condition on the Premises that could present a threat to human health or to the environment. Permittee shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by Permittee, assignees or invitees during Permittee’s period of use, including conditions introduced by Permittee, assignees, or invitees which affect other lands. Permittee expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. Permittee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Permittee discovers any such health or environmental impairment, and Permittee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Permittee shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Permittee may enter the Premises during regular business hours of Permittee without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of Permittee or without if Permittee reasonably believes that an emergency exists on the Premises. Permittee shall conduct any such inspections or testing so as to minimize interference with Permittee’s operations. Permittee’s entry on to the Premises pursuant to this paragraph shall not relieve the Permittee’s obligation to pay rent under this Permit.

In addition to the foregoing provisions of this Paragraph 20, and in exchange for the rights and privileges granted in this Permit Agreement, Permittee hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for Permittee’s use of the
Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Further, Permittee agrees to defend, indemnify and hold harmless Permitor, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Permittee expressly agrees that the obligations it hereby assumes shall survive the cancellation of this Permit. The Permittee agrees to immediately notify the Permitor of any environmental concerns that arise during the construction or operation of the trail.

21. COMPLIANCE WITH LAWS, ORDINANCES AND RULES

Permittee agrees to comply with all laws, ordinances, and regulations of federal, state, municipal, and local government agencies as they apply to use of the Premises.

22. CONDITION OF PREMISES INSPECTION

Permittee accepts the Premises in an "AS IS CONDITION" with no express or implied representations or warranties by Permitor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

Permittee acknowledges and assumes all risks associated with the location of the Premises and its proximity to the railroad right of way adjacent to the Premises and to any railroad operations by any railroad company thereon, including without limitation, the Soo Line Railroad Company and the Twin Cities and Western Railroad Company, and shall defend, indemnify and hold harmless Permitor, its Commissioners, officers, agents, volunteers, and employees from and against, any and all liability, claims causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees related to the same.

23. RAILROAD OPERATIONS

Permittee agrees that the rights contained in this Permit Agreement are subject to and subordinate to the rights granted and contained in any agreements entered into by Permitor as to railroad operations over right of way adjacent to the Premises, including without limitation, agreements with the Soo Line Railroad Company, Twin Cities and Western Railroad and the Chicago and North Western Transportation Company whether or not entered into on or after the commencement of this Permit Agreement. Permittee shall comply with all rules and regulations in regards to railroad operations on the right of way, including without limitation, those regarding safety. This Permit and all provisions thereof
shall be subject to revision at any time if made necessary by any order or finding of the Surface Transportation Board or state authorities having jurisdiction over railroad operations.

Without limiting the foregoing, Permittee agrees that the rights contained in this Agreement are subject to and subordinate to the rights granted in the Trackage Rights Agreement between Soo Line Railroad Company, Twin Cities and Western Railroad Company and Hennepin County Regional Railroad Authority entered into on August 10, 1998, Contract No. A18158, and Permittee agrees to be bound by the terms therein regarding the Kenilworth Trail including without limitation those contained in Sections 4.5 and 4.8. A copy of the Trackage Rights Agreement is attached hereto as Exhibit "B" and made a part of this agreement.
IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of ________, 199__

Approved as to form:

[Signature]
Assistant County Attorney
Date: 8/19/98

[Signature]
Attorney for City of Minneapolis
Date: 8/19/98

Approved as to execution:

[Signature]
Assistant County Attorney
Date: 8/19/98

[Signature]
Attorney for City of Minneapolis
Date: 8/19/98

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: Mary J. Anthorino
Chair, Board of Commissioners

And: Jeff Beatty
Executive Director

CITY OF MINNEAPOLIS

By: [Signature]
Mayor
Date: Oct 1, 1998

[Signature]
City Finance Officer
Date: 10/6/98

ATTESTED BY:

[Signature]
Assistant City Clerk
Date: 10/1/98
MINNESOTA DEPARTMENT OF TRANSPORTATION
MINNEAPOLIS DEPARTMENT OF PUBLIC WORKS

CONSTRUCTION PLAN FOR GRADING, AGGREGATE BASE, BITUMINOUS SURFACING,
BRIDGE NO. 27A43 MODIFICATIONS, FENCING, RETAINING WALL, SIGNING, AND STRIPING

KENILWORTH TRAIL
STATE PROJECT NO 141-090-05

LOCATED ON CANADIAN PACIFIC RAILROAD CORRIDOR
FROM 23TH STREET, GREENWAY TO CEDAR LANE TRAIL

END S.P. 141-090-05
STA. 3.350.15

PLAN SYMBOLS

SCALES

EXHIBIT A

MINN. PROJ. NO. 141-090-05 TEAF 2797(03)

INDEX

PROJECT LOCATION
COUNTY HENNEPIN
DISTRICT METRO

MINNEAPOLIS CONSULTING GROUP, INC.

RECOMMEND
Recommended
for Approval
WATERFRONT B O P OF PUBLIC WORKS
19
Recommended
for Approval
METRO, CIVIL ENGINEER - STATE DEP.
19
Recommended
STATE BRIDGE ENGINEER
19
Approved
for State Aid Division
19

FORESTDAY CERTIFY THAT THE FINAL REVISIONS ARE OF THE PLAN
HE/SHE MADE AND IS OR IS UNDER DIRECT SUPERVISION AND THAT THE
WORK IS IN ACCORDANCE WITH THE STANDARDS OF PROFESSIONAL ENGINEERING UNDER THE LAWS OF
THE STATE OF MINNESOTA.

THE PLAN CONTAINS 57 SHEETS.

RECOMMEND
Recommended
for Approval
FORESTDAY CERTIFY THAT THE PLAN WAS PREPARED BY US, OR UNDER THE SUPERVISION OR DIRECT SUPERVISION
OF A PROFESSIONAL ENGINEER, UNDER THE LAWS OF THE STATE OF MINNESOTA.

END Date
Reg. No.

EXHIBIT A

MINNEAPOLIS CONSULTING GROUP, INC.

RECOMMEND
Recommended
for Approval
WATERFRONT B O P OF PUBLIC WORKS
19
Recommended
for Approval
METRO, CIVIL ENGINEER - STATE DEP.
19
Recommended
STATE BRIDGE ENGINEER
19
Approved
for State Aid Division
19

FORESTDAY CERTIFY THAT THE FINAL REVISIONS ARE OF THE PLAN
HE/SHE MADE AND IS OR IS UNDER DIRECT SUPERVISION AND THAT THE
WORK IS IN ACCORDANCE WITH THE STANDARDS OF PROFESSIONAL ENGINEERING UNDER THE LAWS OF
THE STATE OF MINNESOTA.

THE PLAN CONTAINS 57 SHEETS.

RECOMMEND
Recommended
for Approval
FORESTDAY CERTIFY THAT THE PLAN WAS PREPARED BY US, OR UNDER THE SUPERVISION OR DIRECT SUPERVISION
OF A PROFESSIONAL ENGINEER, UNDER THE LAWS OF THE STATE OF MINNESOTA.

END Date
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**NOTES**

1) **CALC** is used to determine the cost of material.
2) **CALC** is based on the cited application rate.
3) **CALC** is based on the cited application rate.
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**NOTES:**

- MOUNTING HEIGHT IS MINIMUM. SEE DETAIL (SHEET B) FOR TYPICAL MOUNTING.
- USE SS-2X IN COMBINATION WITH W1-2X.
- POST LENGTH IS MAXIMUM - POST SHALL NOT EXTEND ABOVE TOP OF SIGN.
- "USED FOR TEMPORARY TRAFFIC CONTROL. THESE AREAS ARE NOT INCLUDED IN FB SIGN PANEL TYPE "C""
**CONSTRUCTION NOTES**


All Dimensions Are In Units of Millimeters And Elevations Are In Meters Unless Stated Otherwise.

Construction Requirements Shall Conform to Spec. 2403.4

Unless Otherwise Noted.

All Glue Laminated Timber Deck Shall Be Southern Yellow Pine, 9x = 11.0, 5/4" panel, Combination Symbol 165-72.

Runners, Edge Strip And Rub Rail Shall Be Southern Yellow Pine, 10 x 7.9 kips, Grade No. 2 or Better (S42).

Curb Shall Be Southern Yellow Pine, 10 x 6.0 kips, Grade No. 3 or Better (S42).

All Drilling And Cutting Of Timber Exceeding 50mm In Thickness Shall Be Completed Before Pressure Treatment Unless Otherwise Authorized By The Engineer.

All Timber is To Be Pressure Treated Per Spec. 3401.

(Refer to Special Provisions)

Cedar Lake

2800mm Out of Deck

**SCHEDULE OF QUANTITIES FOR ENTIRE BRIDGE**

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1. Includes Quantity For Twenty Additional Piles That May Be Required. Determination of Tie Replacement Shall Be Made By The Engineer During Construction.
NOTE:
1. Contractor shall verify existing dimensions in field before grading materials.
PLAN VIEW - TYPE A
ESTIMATED WEIGHT = 55.0 OR 62.0 kg

PLAN VIEW - TYPE B
ESTIMATED WEIGHT = 47.0 OR 52.0 kg

PLAN VIEW - TYPE C
ESTIMATED WEIGHT = 54.0 OR 60.0 kg

NOTES:
1. STRUCTURAL STEEL PER SPEC. 3306
2. STRUCTURAL PIPE PER SPEC. 3302
3. GALVANIZE THE FENCE POST ANCHORAGE AFTER FABRICATION PER SPEC. 3306, GALVANIZE THE FASTENERS PER SPEC. 3302.
4. DOUBLE EXTRA STRONG PIPE WEIGHTS
   - 38 mm NOMINAL DIA. = 5.16 kg/m
   - 50 mm NOMINAL DIA. = 14.04 kg/m
5. HARDWARE QUANTITIES INCLUDED IN PAYMENT FOR PIPE FENCE DESIGN SPECIAL VINYL COATED.

TYPICAL SECTION

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
FENCE POST ANCHORAGE

DETAIL NO.
B905M
(MODIFIED)

BRIDGE NO. 27A43

SHEET NO. 17 OF 57 SHEETS

S.P. 141-080-05
### METRIC ALIGNMENT TABULATION

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**CITY OF MINNEAPOLIS**

**CONSULTING GROUP, INC.**

**ALIGNMENT FABRICATION**

**KENILWORTH TRAIL**

**PROJECT NO.**

**BOEING**

**DATE:**

**SHEET:**

**OF:** 57

**PROJECT NO.**

**SCALE:**

**DIMENSIONS:**

**SURVEY:**

**INSTRUMENT:**

**DRAWN BY:**

**CHECKED BY:**

**DESIGNER:**

**CONTRACT:**

**BID:**

**PLAN:**

**ENGINEER:**

**CONSULTING GROUP, INC.**

**ADDRESS:**

**PHONE:**

**FAX:**

**EMAIL:**

**WEB SITE:**

**CITY PROJECT NO.**

**SUBJECT:**

**SHEET:**

**OF:** 57

**PROJECT NO.**

**SCALE:**

**DIMENSIONS:**

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**SUBJECT:**

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**OF:** 57

**PROJECT NO.**

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**Note:** The table above contains the alignment data for various points along a specified route, including distances in meters, radius, tangent, length, and azimuth angles. The data is organized in a tabular format with columns for station points, curve data, and azimuth calculations.
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**CITY OF MINNEAPOLIS**
ALIGNMENT TABULATION
KENILWORTH TRAIL

**SRF Consulting Group, Inc.**

**STATE PROJECT NO.**

**CHART BY**

**DATE**

**CHECKED BY**

**DRAWN BY**

**PROJECT NO.**

**DATE**

**TIME**

**XYY**

**sheet 23 of 56**
NOTES:
- SEE SPEC. 2576.3 FOR ADDITIONAL INFORMATION.
- FOR ROUNDING, SEE ROAD DESIGN MANUAL.
- CONSTRUCT TAPER AS DIRECTED BY THE ENGINEER.

SHAPING FOR DRAINAGE ALONG THE TOE OF FILL SLOPES

SHAPING AND TOPSOILING IN SLOPES

SHAPING ADJACENT TO CURBS WHEN SOD IS PLACED

MODIFIED
NOTE: ALL DIMENSIONS ARE IN MILLIMETERS, EXCEPT AS NOTED.
SODDING LIMITS AT GORE AREA

SODDING LIMITS AT BRIDGE APPROACH FILL

SODDING INSLOPES OF SUPERELEVATED CURVES

WOOD FIBER BLANKET INSTALLATION ON A CUT SLOPE

WOOD FIBER BLANKET INSTALLATION ON AN INSLOPE

SPECIAL SOD PLACEMENT TECHNIQUES

WHERE THE FLOW OF WATER IS SHEETING PLACE SOD STRIPS PERPENDICULAR TO THE DIRECTION OF WATER FLOW.

OVERLAPPING SOD

WHERE THE FLOW OF WATER IS CONCENTRATED PLACE SOD STRIPS PARALLEL TO THE DIRECTION OF WATER FLOW.

SHINGLING SOD

WOOD FIBER BLANKET MULCH

END OF BLANKET BURIED IN 150 MM DEEP VERTICAL TRENCH

ADJACENT PROPERTY

SOD RUNOFF SPREADER: SOD LAID PERPENDICULAR TO FLOW OF WATER

BROKEN-BACK SAFETY FILL SLOPE

PERMANENT SLOPE PROTECTION DITCH

FOR MORE INFORMATION, SEE PAGE 3865

SOD SHOULDERED SLOPES ON INSIDE OF SUPERELEVATED CURVES

STATE PROJ. NO. S.P. 141-090-05 SHEET NO. 44 OF 57 SHEETS
Midtown Greenway
Phase I
The following resolution was offered by Commissioner Opat, seconded by Commissioner Tambornino:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, the HCRRA, the City, and the neighborhoods are proposing to develop a master plan for the LRT and bicycle transportation improvements within the corridor owned by HCRRA; and

WHEREAS, the City and HCRRA desire to enter into an agreement to develop a master plan for the Corridor and engineering plans for the first stage of construction, and provide for a division of cost for planning and construction of the bicycle trail between France Avenue and I-35W as an integral part of the Hennepin Community Works initiative,

BE IT RESOLVED, that Agreement No. A09775 with the City of Minneapolis, providing for planning, engineering and bikeway construction in the 29th Street Rail Corridor, between France Avenue and Hiawatha Avenue in the City of Minneapolis, for an indefinite time period commencing with Board approval, at a Hennepin County Regional Railroad Authority (HCRRA) cost not to exceed $304,200, be approved, and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were 4 YEAS and 1 NAYS as follows:

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<th>YEA</th>
<th>NAY</th>
<th>OTHER</th>
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<td>Sandra Hilary</td>
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<td>Randy Johnson</td>
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<td>Penny Steele</td>
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<td>Peter McLaughlin, Chair</td>
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RESOLUTION ADOPTED SEPTEMBER 12, 1995

ATTEST: Mary Tambornino, Secretary
SECOND AMENDMENT TO PERMIT AGREEMENT NO. AO9775

THIS AGREEMENT, made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY ("Permittor"), a Minnesota political subdivision, and the City of Minneapolis ("Permittee"), a Minnesota political subdivision;

W I T N E S S E T H:

WHEREAS, Permittor and Permittee entered into a certain Permit Agreement bearing Agreement No. AO9775 and the First Amendment to Permit Agreement No. AO9775, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Rail Authority "29th Street Rail Corridor", said Permit and First Amendment being set forth in Exhibit "B", attached hereto and made a part hereof by reference;

WHEREAS, Permittor and Permittee desire to amend the Permit in certain particulars;

NOW, THEREFORE, the parties mutually agree as follows:

Clause 5. "Premises" of the Permit is hereby amended by substituting the following therefor:

5. Premises

HCRRA hereby agrees to grant certain rights and benefits to the City hereinafter described with regard to that certain real property described as follows:

That part of HCRRA's right of way, located in the City of Minneapolis, between France Ave. So. and 5th Ave. So., the northerly limits being the northerly HCRRA property line and the southerly limits being the southerly construction limits shown on the construction plans for the 29th St. Midtown Greenway – Phase I, attached hereto as, Exhibit "A1"

The said real estate shall be hereinafter described as the "Premises."

The effective date of this First Amendment to Permit Agreement No. AO9775 is June 1, 2003.

Except as herein above amended, the terms, conditions and provisions of Permit Agreement No. AO9775, shall apply to and govern the provisions of this Agreement.
First Amendment

TO HCRRA PERMIT AGREEMENT A09775 AND BETWEEN THE HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY (Authority) AND THE CITY OF MINNEAPOLIS (City).

WITNESSETH:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, resolution 36-HCRRA-95 approved Agreement No. A09775 with the City of Minneapolis, providing for planning, engineering and bikeway construction in the 29th Street Rail Corridor, between France Avenue and Hiawatha Avenue in the City of Minneapolis, for an indefinite time period, at a Hennepin County Regional Railroad Authority (HCRRA) cost not to exceed $304,200; and

WHEREAS, additional costs to construct retaining walls were found necessary to complete the design and construction of the bikeway; and

WHEREAS, $45,800.00 of the additional costs of the retaining walls was found to be justified as necessary expense for the construction of a future Light Rail line in the corridor,

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Authority hereby agrees to payment of $45,800.00 as additional costs for construction of retaining walls, bringing its total not to exceed for Agreement A09775 to $350,000.00 as shown in revised Exhibit A1 attached hereto.
IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of ________________, 1998.

Upon proper execution, this agreement Will be legally valid and binding.

Hennepin County Regional Railroad Authority

Mary Donahue
Chair, Board of Commissioners
Date: ________________

Assistant County Attorney
Date: 7/30/98

Executive Director
Date: 10/19/98

City of Minneapolis

V. A. Armstrong
Minneapolis City Attorney
Date: 8/25/98

ACTING Mayor
Date: ________________

Approved as to execution:

Assistant County Attorney
Date: 10-26-98

Minneapolis City Attorney
Date: ________________

Finance Officer
Date: 10/20/98
### Midtown Greenway Cost Estimate and Division of Cost:

**HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, HENNEPIN COUNTY AND CITY OF MINNEAPOLIS**

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<th>HCRRA</th>
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**Midtown Greenway Cost Estimate and Division of Cost:**

**Hennepin County Regional Railroad Authority and City of Minneapolis**

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This Permit Agreement made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision, Southwest Street Level, Government Center, 300 South Sixth Street, Minneapolis, Minnesota 55487-0016, hereinafter referred to as the "Authority," and the CITY OF MINNEAPOLIS, a Minnesota political subdivision, City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, the HCRRA, the City, and the neighborhoods are proposing to develop a master plan for the LRT and bicycle transportation improvements within the corridor owned by HCRRA; and

WHEREAS, the City has applied and received approval for an ISTEA grant for construction of a bicycle trail within the HCRRA Corridor between France Avenue and I-35W; and

WHEREAS, the City and HCRRA desire to enter into an agreement to develop a master plan for the Corridor and engineering plans for the first stage of construction, and provide for a division of cost for planning and construction of the bicycle trail between France Avenue and I-35W as an integral part of the Hennepin Community Works initiative.
In consideration of the covenants by and between the parties, it is hereby agreed:

1. **Master Plan**

   City shall develop a master plan for the 29th Street Rail Corridor from France Avenue to Hiawatha Avenue. Such plan shall include, but not be limited to, locations for LRT, LRT stations, and the conceptual bikeway and its amenities.

   The Authority shall participate in discussion, review, and comment regarding LRT, LRT station location and design, bikeway, and other facilities and/or amenities, and their location within the corridor. Authority reserves the right to reject any plans proposed by the City on the grounds, in Authority's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of any railroad operating on the right of way adjacent to the Premises.

2. **Preliminary Engineering Plans**

   City shall complete preliminary engineering plans for the bicycle trail (ISTEA Project No. S.P. 141-090-03) within the Corridor between France Avenue and Fifth Avenue South. Authority agrees to cooperate with City in the development of such plans.

3. **Final Design and Construction**

   City shall complete final design plans, contract for and supervise construction of the bicycle trail (ISTEA Project No. S.P. 141-090-03) between France Avenue and Fifth Avenue South.
4. **Payment**

Payment for the master plan, preliminary engineering, final design, and construction will be made by the parties as shown on the Division of Cost, Exhibit A, attached hereto and made a part of this agreement by this reference.

5. **Premises**

Authority hereby agrees to grant certain rights and benefits to City hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way in the City of Minneapolis, generally consisting of the northerly 35 feet between France Avenue and Fifth Avenue South, all as delineated and colored green on HCRRA Property Maps numbered and attached hereto as Exhibit B.

The description of the Premises as determined by the parties will provide exceptions for future LRT station areas at Abbott Avenue, Hennepin Avenue, Lyndale Avenue, Nicollet Avenue, and any other potential LRT station area all as determined by Authority.

A more complete legal description will be prepared upon the completion of construction of the bike trail, and will replace and supersede the above description. The said real estate shall be hereinafter described as the "Premises."

6. **Use of Premises**

The Premises shall be for the temporary use of City, its agents, officers, employees, assignees and invitees for trail purposes. Authority reserves the right to limit, reject or refuse to permit the use of the Premises by City or any assignees for any purpose which Authority, in its sole discretion, deems inappropriate or incompatible with its future use of the Premises or the operations of any railroad operating on the right of way adjacent to the Premises. City
shall submit any proposed development or other physical alterations to the Premises to Authority to determine its acceptability to Authority prior to contracting any obligations or commitments in connection therewith.

7. Term

The term of this Permit Agreement shall be for an indefinite period, commencing on execution by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 8.

8. Termination

Either party may, at any time and for any reason, terminate this Permit by giving one hundred eighty (180) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center, Minneapolis, Minnesota, 55487, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the City of Minneapolis by delivering a copy thereof to City Engineer, Room 203, City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

9. Rights Upon Termination

On the expiration of one hundred eighty (180) days after such service of said notice, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. City shall, without further notice or demand, deliver possession of the Premises to the Authority at the expiration of said one hundred eighty (180) days and shall, before the
expiration of said one hundred eighty (180) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Authority, cease and City's interest thereto shall be forfeited and at the same time shall belong to Authority or, in such case, if the Authority shall elect, it may, at any time after the expiration of said period of one hundred eighty (180) days, tear down and/or remove any or all such buildings and property at the expense of City without any liability for damages thereof in any respect whatsoever and City shall thereupon promptly reimburse Authority for all expenses incurred by it in doing so.

10. **Joint Use of Corridor**

City acknowledges that the Premises was acquired by Authority specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Authority's intention to allow City to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Authority of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Authority has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses, including, without limitation of the foregoing, mainline and station locations, all as determined by the Authority.

11. **Rent**

Upon any such termination of this Permit, rent shall be paid by the City to the date of termination fixed by said notice at the rate of $1.00 per year.
12. **Subpermits**

City may grant permits to assignees only upon written agreement of Authority. Any subpermit shall be on the same terms and conditions and for the same uses as are contained in this Permit.

13. **Signage**

City shall provide, install and maintain signage, including kiosks, on the Premises identifying that the Premises are being used by the City of Minneapolis by permission of the owner, the Hennepin County Regional Railroad Authority, until the Premises are used for light rail transit or other future transportation uses. Any such signage shall also identify the improvement as part of Hennepin Community Works.

14. **Nuisance, Waste**

City shall not permit the existence of any nuisance on said Premises. City, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting City's business and use and occupation of said Premises. City, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that City may post on appropriate structures, informational materials relating to the permitted uses. City shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.
15. **Utilities, Title, Existing Rights of Others**

City accepts said Premises subject to the rights of any person, firm or corporation, including the Authority in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of City’s use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, City shall bear and pay the cost of so doing.

City also accepts said Premises subject to any want or failure at any time of Authority’s title to said Premises or any part thereof and City shall assume any damages sustained by City in connection therewith. City also accepts such Premises subject to rights of any party, including Authority, in and to any roadways, easements, leases and permits, whether granted, at Authority’s sole discretion, either prior to or after the date of this Permit Agreement. City agrees to provide to Authority or other tenants of Authority access over and through the Premises on these roadways and easements should such access be deemed necessary by Authority. City accepts said Premises subject to the right of Authority, its employees, agents, permittees, lessees, and contractors when reasonably necessary to walk upon said Premises to repair adjacent property and the right of Authority, its employees, agents, permittees, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon Authority’s property.

16. **Indemnification**

City shall defend, indemnify and hold harmless Authority, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney’s fees, resulting directly or indirectly from an act
or omission of City, its agents, employees, customers, invitees, assignees, permittees, lessees
or others on the Premises.

Authority shall not be liable to City or those claiming by, through, or under City for any
injury, death or property damage occurring in, on or about the Premises based upon the
design, construction, operation or maintenance of the Premises by City or any assignees, nor
for the loss or damage by reason of the present or future condition of repair of the Premises,
or for the loss or damage arising from the acts or omissions of City, its agents, employees,
customers, invitees, assignees, permittees, lessees, or others on the Premises.

17. Insurance

City further agrees that if in any case the release and indemnity provided in this section
shall not be valid, Authority shall have the full benefit of any insurance effected by the City
upon the property injured, destroyed or damaged and/or against the hazard involved; and
City agrees that any and all such insurance shall be so written that the insurer shall have no
claim or recourse of any kind whatsoever against Authority in connection therewith.

18. Covenant

City, in consideration of the permitting of the said Premises, as herein provided, hereby
covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide
by and perform all and singular the conditions, covenants and agreements herein contained
and to be observed and performed by said City and to yield up said Premises unto the
Authority at the expiration or termination of the Permit Agreement in as good condition as
when entered upon.
19. **Quiet Enjoyment**

Authority has the right and authority to enter into this Agreement and if City pays the rent required hereby and otherwise performs the terms hereof to be performed by City, City shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding the foregoing, City acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 15.

20. **Waiver**

No receipt of money by Authority from City after any default by City or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of City shall be implied from omission by Authority to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

21. **Breach**

It is further agreed between the parties hereto, that if the said City shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after City’s receipt of written notice thereof from Authority, then it shall be lawful for the Authority, then or at any time thereafter, to declare this Permit ended, and to re-enter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining
possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 8; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of Authority thereafter to avail itself of same and any subsequent breach thereof. In the event Authority has to take action for repossession of said property, City, its assigns or heirs shall be liable for reasonable attorney's fees incurred by Authority.

22. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the City unless specifically stated herein. Authority reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the City or person occupying the Premises during the term of this Permit or any renewal thereof.

23. Improvements, Maintenance

City shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises. City shall also be responsible for the construction of all bridges and crossings deemed necessary for City to provide for any trails on the Premises or to otherwise use the Premises. Construction plans shall be submitted to the Authority for review and comment. Authority reserves the right to reject any plans for construction proposed by City on the grounds, in Authority's sole
discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of any railroad operating on the right of way adjacent to the Premises.

24. Environmental Concerns

City shall not create or permit any condition on the Premises that could present a threat to human health or to the environment. City shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by City, assignees or invitees during City's period of use, including conditions introduced by City, assignees, or invitees which affect other lands. City expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. City agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Authority discovers any such health or environmental impairment, and City hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Authority shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Authority may enter the Premises during regular business hours of City without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of City or without if Authority reasonably believes that an emergency exists on the Premises. Authority shall conduct any such inspections or testing so as to minimize interference with City's operations. Authority's
entry on to the Premises pursuant to this paragraph shall not relieve the City's obligation to pay rent under this Permit.

In addition to the foregoing provisions of this Paragraph 24, and in exchange for the rights and privileges granted in this Permit Agreement, City hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for City's use of the Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Further, City agrees to defend, indemnify and hold harmless Authority, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. City expressly agrees that the obligations it hereby assumes shall survive the cancellation of this Permit.

Notwithstanding the foregoing, the Authority agrees to assert its rights against the Soo Line Railroad Company for environmental work on the site pursuant to Paragraph 17 of the Purchase Agreement dated December 23, 1992, between the Authority and the Soo Line Railroad Company. The City agrees to immediately notify the Authority of any environmental concerns which arise during the construction of the bicycle trail so that the Authority may inform and confer with the Soo Line with respect to management of any
required remediation. The City's obligation to the Authority pursuant to this paragraph 24 is limited to that which is not covered by the Soo Line Railroad agreement with the Authority.

25. **Compliance with Laws, Ordinances and Rules**

City agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. City agrees to comply with rules as may be promulgated from time to time by Authority.

26. **Condition of Premises Inspection**

City accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Authority as to the physical condition or fitness or suitability for any particular purpose, express or implied. City is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

City acknowledges and assumes all risks associated with the location of the Premises and its proximity to the railroad right of way adjacent to the Premises and to any railroad operations by any railroad company thereon.

27. **Liens and Encumbrances**

City shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by City, its agents, employees, customers, invitees, assignees, lessees or other occupiers of the Premises pursuant to this Permit.
IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of ______________________, 1995.

Upon proper execution, this agreement will be legally valid and binding.

Hennepin County Regional Railroad Authority
Chair, Board of Commissioners
Date: ______________________

Executive Director
Date: 9/12/95

City of Minneapolis
Mayor
Date: 8-29-95

Approved as to execution:

Assistant County Attorney
Date: 8/31/95

Minneapolis City Attorney
Date: ______________________

Assistant County Attorney
Date: 9-15-95

Minneapolis City Attorney
Date: ______________________
**Midtown Greenway Cost Estimate and Division of Cost:**

**Hennepin County Regional Railroad Authority and City of Minneapolis**

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<th>HCRRA</th>
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Memorandum of Understanding
Between
The City of Minneapolis, Department of Public Works
And
Hennepin County

The City of Minneapolis wishes to complete the Midtown Greenway Trail Phase I project from the west city limits to Fifth Avenue South. This will require cost sharing from the City of Minneapolis, Department of Public Works (City), Hennepin County Community Works (Community Works) and Hennepin County Regional Railroad Authority (HCRRA). The City and HCRRA shared in the cost of the Master Plan (2/3 and 1/3 costs split respectively). The City has paid for final design and construction specifications. The City will pay for construction engineering.

The purpose of this Memorandum of Understanding is to identify the cost sharing between the City and Hennepin County for construction of Midtown Greenway Phase I project.

The construction bid for the project is $2,857,330. The City has secured $1,016,376 from ISTEA for the project. Hennepin County will be responsible for $962,500 (not to exceed this amount). Subject to a separate Memorandum of Understanding, the Hennepin County Regional Railroad Authority is requested to consider providing up to $350,000 for this project. Minnesota Department of Transportation will request these funds when the contract is awarded.

This Memorandum is a summary and represents the cost sharing agreed to between the parties. All agreements and legal issues are subject to the necessary City Council approvals and Hennepin County Commissioners’ approvals.

David J. Sonnenberg
City Engineer-Director of Public Works

[Signature]
Hennepin County Administrator

APPROVED AS TO FORM.
[Signature]
Assistant County Attorney
For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local government unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

See attached Exhibit A

SOO LINE RAILROAD COMPANY

By: Edwin V. Dodge

Its: President and CEO
STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing quitclaim deed was acknowledged before me this 20th day of July, 1993 by Edwin V. Dodge, the President and CEO of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

[Signature]
Notary Public

Tax statements for the property should be sent to Grantee at:
Hennepin County Regional Rail Authority
Government Center, Mpls, MN 55487-0016
Attn: Deputy Executive Director

This instrument was drafted by:
John P. Nail
Soo Line Railroad Company
P.O. Box 530
Minneapolis, MN 55440

Mtge Code 763

9211-MPLS-HCRRA-2 (REVISED)
All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)
QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Buyer") the following property: all personal property to be conveyed by Seller to Buyer pursuant to that certain Purchase Agreement dated December 23, 1992 between Seller and Buyer.

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY
By: [Signature]
Its: S.V.P. & CLO
Date: July 30, 1993
PURCHASE AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS AGREEMENT, made and entered into this 23rd day of December, 1992, by and between the Soo Line Railroad Company, a Minnesota corporation, hereinafter sometimes called "Soo", and the Hennepin County Regional Railroad Authority, a political subdivision and local government unit of the State of Minnesota, hereinafter sometimes called the "Authority".

RECITALS

Soo presently owns and operates a line of railroad parallel with the approximate alignment of 29th Street South in the City of Minneapolis, County of Hennepin, State of Minnesota between Hiawatha Avenue and France Avenue sometimes referred to as the 29th Street Corridor.

The State of Minnesota Department of Transportation and the City of Minneapolis propose to reconstruct Hiawatha Avenue between Lake Street and 24th Street South in the City of Minneapolis and desire to eliminate all Soo rail crossings of Hiawatha Avenue within this segment.

Soo is willing to alter its operations in and through the City of Minneapolis to accommodate the Hiawatha Avenue improvements and is willing to sever its rail line across Hiawatha Avenue, providing alternate rail routes are provided for Soo and other railroads presently using the Soo crossings of Hiawatha Avenue under trackage
rights agreements. Soo also expects to be compensated for any increased operating expense resulting from use of alternate routes.

Elimination of rail links across Hiawatha between Lake Street and 24th Street will save substantial sums of money for all governmental agencies involved in funding the Hiawatha Avenue reconstruction.

The Authority desires to acquire by purchase the 29th Street Corridor from Hiawatha Avenue west to France Avenue for future use for public transportation purposes. Acquisition and utilization of said corridor will sever the rail links across Hiawatha substantially accommodating the Hiawatha Avenue reconstruction.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

SECTION 1 - DEFINITIONS

A. "Agreement" shall mean this Agreement dated 12-23, 1992. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

B. "Property" is defined in Section 2A and shown on Exhibit A and Exhibit B to this Agreement.

C. "Railroad Easement" shall mean the easement created by this Agreement and legally described in Exhibit C, providing for the continuation of Soo's present operation of common carrier freight railroad service for a limited period of time and the use of the Property to be acquired by the Authority as a result of this Agreement as may be necessary for said railroad operations.
D. "Loss or Damage" includes any and all claims, liabilities, damages, costs, judgments, and expenses (including reasonable attorneys' fees and expenses) of every character incident to loss or destruction of or damage to Property and injury to or death of persons, arising upon or as a result of any operations conducted under the terms of this Agreement.

E. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Railroad Easement, or in switching or handling railroad cars of the respective parties hereto.

F. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

G. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as other track material), ballast, all grade crossing signals and other signal and communication equipment located upon the Property, and including trackage laid in and across public streets and highways.

H. "Environmental Site" shall mean the physical location from which emanates any claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature resulting from
the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property.

SECTION 2 - PROPERTY TO BE ACQUIRED

A. Soo agrees to sell and the Authority agrees to buy all of Soo's interest in the railroad right-of-way presently owned and operated by Soo along the approximate alignment of 29th Street South in the City of Minneapolis between the east right-of-way line of Hiawatha Avenue and the westerly city limits of the City of Minneapolis all as shown and described in Exhibits A and B attached (the Property). Included in the Property to be sold are the following:

(1) Soo's interest in all lines of railroad between Cedar Avenue and Hiawatha Avenue, some of which cross Hiawatha Avenue in the vicinity of 28th Street and the other crossing Hiawatha Avenue in the vicinity of 26th Street.

(2) Soo's interest in any industrial spurs or other spur track rights of way appurtenant to the right-of-way.

(3) Soo's interest in any bridges, retaining walls, and other similar structures upon, over, under, across, or appurtenant to the right-of-way, but excluding grade
crossing protection signals and other signal and communication equipment.

(4) Soo's interest in any permits, licenses, ordinances, easements, or other rights permitting the occupation of the right-of-way and the operation of a railroad over the property including (but not limited to) rights to cross, traverse, or operate in or upon public streets and rights of way, but excluding Soo's rights and obligations to provide common carrier freight rail service on the property:

(5) Soo's interest in the railroad right-of-way located in public streets and other public rights of way.

(6) Valuation maps, plats, deeds of conveyance, and other similar records relating to Soo's ownership of the right-of-way. Except as provided herein, the originals of such records shall be delivered to the Authority within a mutually convenient and reasonable time following the closing. A copy may be delivered in lieu of the original under the following circumstances: (i) the original is unavailable, (ii) the record also pertains to Soo property other than the 29th Street Corridor, or (iii) the original record is reasonably required by Soo during the term of the Railroad Easement (as defined in this Agreement), in which event the original shall be delivered to the Authority promptly after the termination of the Railroad Easement.
B. Trackage is excluded from the property to be sold, except as otherwise provided by Section 12.

C. Notwithstanding acquisition of the Property by the Authority, the Authority grants use of a portion of the Property for purposes of the Railroad Easement and limited access to other portions of the Property solely for maintaining and performing Railroad operations upon the Railroad Easement, under the terms set forth in this Agreement. The Authority reserves the right to enter, and make alterations upon, the Railroad Easement, provided that such entry and alterations do not unreasonably interfere with Soo railroad operations and are in accord with other provisions of this Agreement.

SECTION 3 - CONVEYANCE AND CLOSING

A. The property will be conveyed at the closing by quit claim deed and bill of sale in a form consistent with Exhibits D and E and such other documents or evidence as the Authority or its counsel may reasonably request or as required by applicable law.

B. The Railroad Easement will be conveyed in a form consistent with Exhibit C which provides that the Railroad Easement is governed by the terms of this Agreement and shall be delivered at the closing.

C. The closing of this transaction shall occur on or before June 1, 1993, at 10:00 a.m. at the office of the Authority, Southwest Street Level Government Center, Minneapolis, Minnesota or at such other time or place as may be mutually agreed upon by the parties.
D. The Authority will purchase, affix, and cancel any and all documentary stamps in the amount prescribed by statute, and will pay any and all deed taxes, transfer taxes, excise taxes, sales taxes, use taxes, and fees incidental to the transfer of the Property or the recordation or filing of the deed or deeds.

SECTION 4 - PAYMENT

A. The Authority agrees to pay funds in the following amounts to Soo for the Property in accordance with the terms and conditions of this Section and in accordance with other terms of this Agreement. All amounts are net to Soo and shall be paid by immediately negotiable warrant. The funds so paid will constitute full and final payment by the Authority to Soo for each of the following defined items:

(1) $9,000,000 for all of the Property described in Section 2 and Exhibits A and B.

(2) As full and final compensation for all increased operating costs and trackage rights:

(a) $688,000 for trackage rights incurred by Soo and its railroad tenants in transporting rail traffic via alternate routes that now originates or terminates on the Property, or traverses the Property, so long as such traffic continues, subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority
anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(b) $158,000 for increased operating costs incurred by Soo to continue to serve customers originating or terminating traffic on the Property after Soo's present line of railroad is severed at Hiawatha Avenue, all subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(c) Payment for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.

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B. The payments described in 4A will be paid in the amounts and at the times set forth as follows:

(1) $8,250,000 at closing.

(2) $ 750,000 after termination of the Railroad Easement in accordance with Section 12 of this Agreement. Said sum will be deposited as the Railroad Easement Escrow in an interest bearing escrow account or certificate of deposit with interest earned to be reinvested in the escrow account. The entire balance of the Railroad Easement Escrow account including accrued interest, less the costs associated with said account, will be disbursed to Soo upon the written authorization of the Authority, which shall be given upon termination of the Railroad Easement in accordance with Section 12.

C. The payments described in 4A(2) for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.
SECTION 5 - CONDITIONS PRECEDENT TO CLOSING

A. General Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement will be subject to fulfillment on or before the closing date of all of the following conditions, any of which may only be waived by the Authority in writing.

(1) Closing of this transaction is contingent upon obtaining of any required regulatory and other governmental approvals.

(2) Closing of this transaction is contingent upon the Authority obtaining commitments satisfactory to it to pay all of the increased operating costs and trackage rights set forth in Section 4A(2) of this Agreement.

(3) Provision by Soo of any and all documents to comply with the terms of this Agreement and execution of any and all instruments, documents and consents as necessary, including quit claim deeds, releases executed by any secured parties and in a form acceptable to insurers of title as to any and all security interests, mortgages or other encumbrances on the Property. Within 90 days after the closing, Soo shall cause to be recorded partial releases or satisfactions of any mortgages or deeds of trust of Soo which may appear of record as a lien against the Property, and Soo shall indemnify the Authority, and the Authority’s title insurer, for any loss or expense sustained by either of them as a result of Soo’s failure
to have such lien so released or satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo’s title.

(4) Any judgment against Soo which may appear of record as a lien against the Property shall be settled and satisfied by Soo within 30 days after it becomes final and unappealable, and Soo shall indemnify the Authority, and the Authority’s title insurer, for any loss sustained by either of them as a result of Soo’s failure to have such lien so settled and satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo’s title.

(5) Soo shall provide agreements by present tenants of the Property to vacate or terminate trackage rights presently in effect, to take effect no later than such time as the Railroad Easement is terminated.

(6) The Property will be conveyed subject to facts which would be disclosed by a comprehensive survey, rights and claims of parties in possession, rights of the public, and those easements, leases, licenses and permits listed in Exhibit F. The Authority may object to the marketability of Soo’s title on the basis of such matters. Soo is under no obligation to cure title defects. If a title defect is not cured, the Authority at its option may terminate this Agreement at any time prior to closing.
(7) The Property shall be conveyed subject to the rights of CMC Real Estate Corporation or its successors or assigns to the location of certain billboards on the Property shown by arrows on Exhibit G and which shall not afford a basis for objecting to the marketability of Soo's title.

B. Environmental Conditions. The obligations of the Authority and Soo to consummate the transaction contemplated by this Agreement are subject to the fulfillment on or before the closing date of all of the following environmental conditions, any of which may only be waived by the other party in writing:

(1) All of the environmental representations and warranties of the Soo contained in this Agreement shall be true and correct on and as of the closing date.

(2) Soo shall have completed a Phase II environmental investigation of the Property and a supplemental Phase I environmental investigation and shall have shared all final reports and recommendations of such investigations with the Authority within 30 days from the execution of this Agreement.

(3) The Authority shall have performed an environmental investigation of the Property supplemental to the Phase II, the scope of which shall be in the sole discretion of the Authority.
(4) If the highest estimated cost to remediate the Property to federal, state and local environmental regulatory standards for use as a transportation corridor exceeds $2 million, either party may terminate this Agreement by written notice to the other prior to the closing and thereupon neither party shall have any further rights or obligations under this Agreement. The estimate of remediation cost shall be based upon remediation techniques that reasonably accommodate the Authority's time needs in using the Property as a transportation corridor.

(5) Soo shall have sealed or caused to have been sealed in accordance with the requirements of Minnesota law any existing wells known to Soo and shall have delivered the required Sealed Well Certification to the Minnesota Department of Health except for the two monitoring wells which are the subject of a right of entry in an agreement between the Soo and the Minneapolis Community Development Agency (designated in said agreement as MW304 and MW306), for which a partial assignment shall be made to the Authority.

C. Corporate Authority Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of a certificate or certificates dated as of the closing date and signed
on behalf of Soo by its Secretary or Assistant Secretary to the effect that:

(1) The copy of Soo's restated Certificate of Incorporation or Articles of Incorporation attached to the certificate are true, correct and complete;

(2) No amendment to said Articles or Certificate has occurred since the date of the last amendment annexed;

(3) A true and correct copy of the By-Laws of Soo as in effect on the date thereof and at all times since the adoption of the resolutions referred to in the following paragraph is annexed to such certificate;

(4) The resolutions by the Board of Directors of Soo authorizing the actions taken in connection with the sale of the Property including the execution and delivery of this Agreement and any related agreements, were duly adopted and continue in force and effect (a copy of such resolutions to be annexed to such certificate).

(5) The officers of Soo executing this Agreement and any other related agreements executed and delivered pursuant to or in connection with this Agreement are incumbent officers of Soo and that their signatures as shown on such certificate or certificates are genuine.

(6) Soo is a corporation in good standing in the State of Minnesota.

D. Municipal Corporate Authority Conditions. The obligation of Soo to consummate the transaction contemplated by this Agreement
is subject to the provision by the Authority to Soo of a certified copy of the resolution of the Board of the Authority certifying its approval of the transaction pursuant to the authority of Minnesota Statutes § 398A.04.

E. Opinion of Counsel to Soo. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of an opinion of Counsel to Soo, which may be house Counsel, that:

(1) To Soo's knowledge, no proceeding is pending, nor is there a substantial threat of such a proceeding, before any court or governmental agency in which it is sought to restrain or prohibit, or to obtain labor or environmental protection, conditions or provisions or damages or to obtain other relief in connection with, this Agreement or any other agreement to be executed in connection with this Agreement or the consummation of the transactions contemplated hereby or which, if adversely decided, would materially affect or impair either party's right or ability to perform its obligations hereunder or to obtain the benefits hereof, and no investigation that might eventuate in any such suit, action or proceeding is pending or threatened; and

(2) To Soo's knowledge, there are no labor disputes in progress or threatened with respect to Soo or the transaction contemplated by this Agreement.
F. Opinion of Counsel to Authority. The obligation of Soo to consummate the transaction contemplated by this Agreement will be subject to delivery by the Authority to Soo of an opinion of counsel as follows:

(1) All actions, proceedings, resolutions, instruments and documents required to carry out this Agreement and all other related legal matters shall have been approved on or before the closing date by the Hennepin County Attorney or the law firm of Felhaber, Larson, Fenlon & Vogt, P.A., counsel to the Authority in the exercise of its or their reasonable judgment, and the Authority or its counsel shall have been furnished with copies, satisfactory in form and substance to counsel to the Authority in the exercise of its or their reasonable judgment, of all of such required material corporate records and related proceedings of Soo authorizing its execution, delivery and performance of this Agreement as the Authority or its counsel shall reasonably require.

G. Alternate Routing Conditions. The obligation of the parties to consummate the transaction contemplated by this Agreement is subject to fulfillment on or before the closing date of the following condition, which may only be waived by either party in writing. The Authority agrees to cooperate and assist Soo in obtaining the agreements contemplated by this condition:

Soo shall have obtained agreements satisfactory to Soo with Chicago and North Western Transportation Company, Burlington Northern Railroad, and other railroads affording Soo and Twin Cities and Western Railroad
Company alternate routing for rail traffic that is currently routed via the 29th Street Corridor.

SECTION 6 - ENVIRONMENTAL INVESTIGATION

The Authority may enter the Property and, to the extent necessary, Soo’s land in the vicinity of the Property (jointly referred to as the Site in this Section 6) for the purpose of surveying and conducting the supplemental environmental investigation referred to in Section 5 of this Agreement, including, but not limited to, soil borings, water samplings and other environmental inspections and tests the Authority in its sole discretion deems necessary subject to the following conditions:

1) The Authority shall give Soo advance notice of the date and time of each entry and the nature of the activities to be conducted on the Site at each such date and time.

2) Soo may elect to be present during the conduct of such activities and to monitor same. Such monitoring shall not relieve the Authority of any liability under this Section.

3) Prior to entering the Property, the Authority shall secure the permission of any tenant then in possession of same.

4) Upon the completion of its activities, the Authority shall remove any debris resulting from such activities and shall restore the Site to the condition it was in prior to the commencement of such activities.
(5) Only to the extent permitted by law, including but not limited to Minnesota Statutes Chapter 466, as amended, and only to the extent of the Authority's fault or negligence, the Authority shall indemnify Indemnities against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, environmental response and remediation costs, and reasonable attorneys' fees (collectively, Claims) arising out of or relating to any loss of (or damage to) any property or business or any injury to (or death of) any persons, where such loss, damage, injury, or death actually or allegedly arises (whether directly or indirectly, wholly or in part) from:
(a) any action or omission of the Authority (or its employees, agents, or contractors) while on the Site pursuant to this Section; or
(b) the exercise by Authority (or its employees, agents, or contractors) of the permission granted by this Section; or
(c) the escape or release of any pollutant, contaminant, or hazardous substance resulting (directly or indirectly, wholly or in part) from any action or omission of Authority (or its
employees, agents, or contractors) while on the Site pursuant to this Section.


(6) The Authority (and its employees, agents, and contractors) shall comply with all applicable laws while on the Site.

(7) The Authority will provide Soo with complete copies of the test data and test reports as soon as they are available to the Authority.

(8) The cost of any test or survey will be borne solely by the Authority.

(9) Unless reasonably necessary to complete the Authority's environmental investigation, test holes shall be located no closer than 10 feet from the nearest rail of any railroad track located on or adjacent to the Site and drilling equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any such track. Before the Authority proceeds with test holes or placement of drilling equipment in such manner
Soo must have given written permission to do so which shall not be unreasonably withheld.

(10) While on the Site, the Authority (and its employees, agents, and contractors) shall comply with Soo’s safety rules, including any requirement regarding the use of flagmen. All costs associated with compliance with such rules shall be borne by the Authority. If Soo shall incur any costs in connection therewith, the Authority shall reimburse Soo within 30 days after receipt of Soo’s invoice.

(11) Unless disclosure is required by court order or applicable law, the Authority shall maintain, and shall cause its employees, agents, and contractors to maintain, the confidentiality of all information pertaining to any environmental test performed on the Site.

(12) If any mechanics’ or materialmen’s lien, or similar lien, is asserted against the Site, the Property, or any other property of Soo or Indemnitees as a result of the exercise of the permission granted in this Section, the Authority shall immediately satisfy and/or obtain the release of such lien, all at the Authority’s expense, and the Authority shall indemnify and defend Soo from and against all Claims arising out of or connected with such lien.

(13) Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as
waivers of the Authority's statutory or common law
immunities or limitations on liability, including but not
limited to Minn. Ch. 466. Further, the Authority's
obligations set forth in this Section and otherwise in
this Agreement are expressly limited and governed by the
provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604,
and any other applicable law or regulation.

SECTION 7 - ASSIGNMENTS OF CONTRACTS, LEASES AND RELATED
INSTRUMENTS

A. Soo will assign to and the Authority or its designee will
accept, all right, title, interest and obligations held by the
Soo, to the extent transferrable and/or assignable, and relating to
the interests in the Property to be transferred to the Authority,
under leases, contracts, permits, licenses and other instruments
which, to the extent discovered by Soo after diligent search of its
files and records, have been listed and described in Exhibit F,
attached hereto and hereby made a part of this Agreement.

B. Soo will also assign all other interests of any nature of
the Soo, to the extent transferrable and/or assignable, and
relating to the interests in the Property to be transferred to the
Authority, including rights in and to general intangibles and
contract rights in addition to those identified or described in
Exhibit F, including franchises, governmental and contractual
operating rights and other contracts, leases, licenses, permits and
privileges, except to the extent such rights relate to Soo's rights
and obligations to provide common carrier freight rail service on the Property.

C. Soo reserves to itself all prepaid rentals attributable to any lease, license or easement whereby a third party has been granted the right to install and maintain a fiberoptic transmission line. Payments for rentals due under said instruments after closing shall be prorated between Soo and the Authority based upon their respective ownership of the affected areas. Otherwise, there shall be no proration of lease rentals.

SECTION 8 - PAYMENTS FOR TAXES

A. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority's ownership, leases, air rights development, and/or operations. Soo agrees to pay promptly to taxing authorities when due all Taxes, if any, with respect to its use or operations duly levied, to the extent Soo's property right has been separately assessed by the appropriate assessing authority to Soo while conducting operations over the Railroad Easement. To the extent Soo's property right is not so separately assessed to Soo, but the underlying fee in the Railroad Easement is assessed as railroad operating property and would be exempt except for Soo's use in operations, then Soo agrees to pay all such taxes duly levied while conducting operations over the Railroad Easement. Soo reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith
litigate and settle with the taxing authority any such protested amount.

B. The Authority shall pay without reimbursement from Soo all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 9 - GRANT OF RAILROAD EASEMENT

A. Subject to all of the terms and conditions of this Agreement, the Authority hereby agrees to grant to Soo at closing a Railroad Easement to continue its present railroad operations and to continue to meet its common carrier obligations at Soo's sole cost and obligation subject to the terms of this Agreement, on its solely owned Trackage located upon said Railroad Easement as described in Exhibit C, including the right to:

(1) Exclusively provide freight railroad service to any industry, team, or house track existing in the 29th Street Corridor on the date of this Agreement or as otherwise may be required by law.

(2) Permit current third party users for bridge rights only or admit a third party only for emergency detour purposes to use all or any portion of said Trackage.

(3) Construct or modify tracks connecting to or crossing said Trackage, including track connections with the Chicago and North Western owned trackage located on Authority owned right-of-way West of France Avenue, subject to provisions of this Agreement, and the prior written approval by the Authority, which approval shall not be
unreasonably withheld and shall be deemed given if required by law.

(4) Use the existing roadbed, bridges, and other existing railroad facilities, if any, acquired by the Authority as a result of this Agreement.

(5) Admit a third party operator as assignee of Soo's common carrier freight service obligation subject to the consent of the Authority which shall not be unreasonably withheld.

SECTION 10 - RAILROAD EASEMENT RENTAL

A. Until termination of the Railroad Easement in accordance with Section 12 of this Agreement, Soo will pay an annual rental of $40,000 to the Authority for the Property utilized by the Railroad Easement. The first payment of $40,000 shall be due one month after the closing date and shall thereafter be paid annually by the same date.

(1) In the event of termination of the Railroad Easement upon other than the anniversary of the closing date, remaining rental due shall be prorated accordingly.

(2) The rental amount may be adjusted upward by the Authority each five (5) years, but each upward adjustment shall be no greater than ten percent of the previous rate.

B. At such time as the Railroad Easement is terminated, Soo shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any
kind except as may have arisen prior to such termination or by reason of other provisions of this Agreement.

SECTION 11 - RAIL CAR STORAGE

Effective no later than six (6) months after closing, Soo and its tenants shall cease storing or parking railroad cars at any location on the Property except such cars as are actually used to service rail users located on or adjacent to the Property. Any rail cars required to be stored for the use of such rail users shall be parked in the vicinity of the loading or unloading tracks of said users.

SECTION 12 - TERMINATION OF RAILROAD EASEMENT

A. As provided in this Section 12, the Railroad Easement and the rental obligation under Section 10 will terminate, and the Railroad Easement Escrow account referred to in Section 4B(2) including accrued interest will be paid to Soo, no later than 90 days (unless winter conditions have prevented removal of Soo Trackage, then 180 days) after the effective date of an abandonment authorization order issued by the Interstate Commerce Commission ("ICC") or an ICC Notice of Exemption, and upon the occurrence of the events in (1) and either (2) or (3) below (unless otherwise provided by this Agreement):

(1) (a) Written notice of termination by either party to the other party;

(b) Soo delivers a release of Railroad Easement suitable for recordation;

(c) The Authority accepts relinquishment of the Railroad Easement in writing which shall be given
when Soo satisfies the conditions in either (2) or (3).

(2) Upon notification by Soo in writing to the Authority that Soo intends to remove the Trackage, and Soo completes salvage of the Trackage and removal of rails located in and across public streets and highways and restores paving (or has reimbursed the Authority for the cost of doing the same). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. If Soo has not completed salvage, and removal of rails and restoration of paving in and across public streets and highways, within ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days), the Trackage not salvaged shall be abandoned in place without compensation from the Authority and Soo shall reimburse the Authority for the cost of completing any removal and repaving which may be deducted from the Railroad Easement Escrow payment.

However, the Authority may, at its sole option, declare that the Trackage is to be left in place and pay to Soo within 90 days of the effective date of the abandonment order the market value of the track materials, less the cost of removal and the value of any additions or betterments previously provided at the
expense of the Authority. In such event, Soo shall have no obligation to restore street and highway crossings. 

(3) Upon notification by Soo in writing to the Authority that Soo does not intend to remove the Trackage from the Property and Soo completes the removal of rails located in and across public streets and highways and the restoration of paving (or Soo reimburses the Authority for the cost of doing the same) no later than ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. The Trackage not salvaged shall be deemed abandoned in place without compensation from the Authority. If Soo has not completed removal of rails and restoration of paving in and across public streets and highways within ninety days after the effective date of the abandonment authority (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). Soo shall reimburse the Authority for the cost of completing any remaining removal and repaving, which may be deducted from the Railroad Easement Escrow payment.

B. Both Soo and the Authority shall have the right to terminate the Railroad Easement at any time in accordance with the provisions of this Agreement. Any such termination must be
initiated by written notice to the other party of its desire to terminate the Railroad Easement. Notwithstanding any other provisions of this Agreement, the Railroad Easement will terminate no later than 15 years following the date of closing, at which time the provisions of Section 12, paragraph E will apply. At that time, Soo agrees to transfer its railroad freight service common carrier obligation to the Authority or the Authority's designee.

C. If Soo desires to terminate the Railroad Easement, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory approval to terminate common carrier railroad freight service. In such event, Soo shall have no right to any payment for lost freight revenue. The Authority agrees to cooperate in seeking regulatory approval.

D. In the event of cessation of local rail freight traffic for a period of one year or more, or in the event the last user of rail freight service along the Railroad Easement ceases operations or otherwise makes clear that it has no further need for rail service, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory authority to terminate common carrier railroad freight service. Soo agrees to make filing of any such request for abandonment authority within six months after the last user ceases operations or after a year in which no local railroad traffic has originated or terminated on the Railroad Easement. Soo further agrees to use its best efforts to
obtain any necessary regulatory abandonment approval for itself and any other users within one year of said filing.

(1) The Authority agrees to cooperate in any such effort. In the event more than one year elapses before necessary regulatory approval is obtained by Soo, or earlier at Soo's request, the Authority may, at its option, proceed in the name of the Soo to prosecute and complete any necessary regulatory procedure to obtain authorization for such cessation, including cessation of operations by users.

(2) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case Section 12E(2) will apply.

(3) Soo shall not be entitled to any payment for lost freight revenue, except as provided in paragraph (2) above.

(4) Soo shall have no obligation to appeal an adverse regulatory decision, but shall be obligated to refile for abandonment approval no later than one year after any such denial. In any event, Soo shall have no obligation to refile for abandonment approval subsequent to a denial more than twice.
(5) The Authority shall have the right at any time to require Soo to divulge its most recent two years freight traffic and revenues generated on the Railroad Easement.

E. In the event the Authority requests termination of the Railroad Easement, the Authority shall have the obligation to obtain regulatory approval at its expense. Soo agrees to cooperate in any such effort at its expense, including preparation of necessary traffic, accounting and financial data in form suitable for ICC or other regulatory application. Soo also agrees that the Authority may proceed in the name of the Soo to prosecute and complete any such procedure. Soo agrees to provide any requested data for regulatory filing within ninety days of request by the Authority.

(1) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case, Sec. 12E(2) will apply.

(2) In the event the Authority requests termination of the Railroad Easement prior to cessation of active rail freight shipping via the Easement, the Authority will make an additional payment at the time termination takes place for lost net revenue calculated in accordance with the provisions of Exhibit H based on average freight revenues for the most recent two years prior to the
request by the Authority and based upon the assumption that revenue will continue for a maximum term of 20 years from the date of closing and further based on the cost of capital as determined by the Interstate Commerce Commission on the date of the request by the Authority to terminate the freight railroad easement. Revenues used in the projection shall be adjusted to reflect those revenues reasonably expected to continue. No payment for lost revenue will be made under any other circumstances.

F. In the event the Authority shall cause, contribute to, or assist in the relocation of any customer facility located adjacent to the Railroad Easement and currently used for rail shipping, the Authority shall:

1. Give Soo advance notice of the proposed relocation.
2. Keep Soo advised as to the particulars of the proposed relocation.

In the event such facility is relocated with the financial assistance of the Authority on a line of railroad not served by Soo, CP Rail or their affiliates, successors or assigns, the provisions of Section 12E(2) will apply.

SECTION 13 - OBLIGATIONS FOLLOWING TERMINATION

Upon termination of the Railroad Easement, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.

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SECTION 14 - RAILROAD EASEMENT MAINTENANCE, OPERATIONS, CONTROL AND ENTRY

A. Until termination of the Railroad Easement, Soo shall have the exclusive direction and control of the Trackage upon said Easement, at its sole cost and expense, subject to the rights of the Authority as set forth in this Agreement. Soo shall perform all construction, derailment or wreck clearing, maintenance, repair and renewal of the Trackage, including any additions thereto it may deem necessary or desirable for the safe and efficient operation of all trains. Soo's obligation for maintenance and repairs shall include any repairs to overhead bridges necessitated by reason of interference with freight railroad operations, which repairs are not required for any other purpose.

B. The management and operation of the Railroad Easement shall be under the direction and control of Soo. Soo shall have the power to change its operations, management and operating practices on or over the Railroad Easement as in its judgment may be necessary, expedient or proper for the operations herein intended, consistent with the provisions of this Agreement.

C. Soo shall have the right to operate trains, engines and cars over the Railroad Easement for its sole benefit, and shall not, except as otherwise provided in this Agreement without prior written permission by the Authority, which permission shall not unreasonably be withheld, permit any third party to operate trains, engines or cars over the Railroad Easement except as already provided in existing trackage rights agreements or as a temporary emergency detour.
D. Soo shall, at its sole cost and expense, determine all means and employ all persons necessary to operate, maintain, repair and renew the Trackage, as well as crossings, crossing signals, ditches, roadbeds, bridges, and communication lines within the Railroad Easement which may be necessary for its use of the Trackage.

E. Soo shall have a right of access over other portions of the Property for the sole purpose of maintaining and performing freight railroad operations over the Railroad Easement. Such access shall not unreasonably interfere with activities of the Authority or other users permitted by the Authority upon Property not part of the Railroad Easement.

F. The Authority shall not pay the expenses of any public crossing of the Railroad Easement which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Railroad Easement.

G. The Authority may enter upon, and make alterations to, the Railroad Easement subject to the following conditions:

(1) The Authority shall give Soo at least three working days advance notice of the date, time, and location of each entry upon the Railroad Easement and the precise nature
of the activities to be conducted on the Railroad Easement at each such date, time and location.

(2) The Authority and its contractors shall not interfere with the operations of any trains or railroad facilities upon the Railroad Easement except with the consent of Soo which consent shall not be unreasonably withheld.

(3) The Authority shall take (and shall cause its contractors to take) such actions as are required to afford Soo the benefit of any applicable insurance held by the Authority or its contractors. In any case where the circumstances would cause a prudent railroad to require the Authority or its contractors to do so, the Authority or its contractors shall procure and maintain in effect railroad protective liability insurance (occurrence form), in Soo’s name and issued by an insurer and in a form acceptable to Soo, with limits of $2,000,000 per occurrence and $6,000,000 aggregate for bodily injury (including death) and property damage.

(4) While on the Railroad Easement, the Authority and its contractors shall comply with all applicable laws and with Soo’s safety rules, all at no expense to Soo.

(5) No work shall be done or obstruction placed over any track or within the Railroad Easement until the Authority or its contractors shall have arranged for Soo to furnish, at the Authority’s or its contractors’ expense, such flagging as Soo deems necessary for the protection
of railroad operations. Such flagging shall not relieve the Authority or its contractors from any liability.

(6) Construction equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any track.

(7) If the Authority desires to construct facilities upon the Railroad Easement, such construction shall be effected in strict accordance with plans which have been approved in advance by Soo. The Authority shall submit the plans to Soo no less than forty-five (45) days prior to the commencement of construction. Soo may require the Authority to make changes in the plans if, in Soo's judgment, the planned construction would create a safety hazard with respect to, or interfere with, railroad operations. Soo assumes no responsibility for, and shall not under any circumstances be held liable for, any error, omission, defect, or deficiency in the plans.

(8) The Authority shall not construct any facility over any track where the vertical distance between the top of the rail and any part of the facility is less than 23 feet.

SECTION 15 - LIABILITY

A. While conducting operations over the Railroad Easement, Soo agrees to defend, indemnify, and hold harmless the Authority, its Commissioners, officers, agents, and employees from any liability, claims, damages, costs, judgments, or expenses resulting directly or indirectly from the act or omission of Soo, its agents,
employees, customers, tenants, or invitees, occurring on or from the Property (including, without limitation, reasonable attorney's fees and compensation for harm resulting from the handling, storage or release of toxic or hazardous substances or wastes, pollutants or contaminants including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products).

B. Notwithstanding anything in this Agreement to the contrary, in case of collision occurring on the Property involving railroad cars, locomotives, rail passenger cars, motor vehicles, other vehicles or equipment operated by the respective parties which causes Loss or Damage involving the Sole Property or Sole Employees of each of the parties hereto, the party whose Sole Employees are alone at fault shall be solely responsible for and shall settle for and pay the entire Loss and Damage caused thereby, or, if caused by the fault of the Sole Employees of both parties hereto, each party hereto shall bear and pay for all Loss or Damage which its Sole Employees and Sole Property may have suffered as a result thereof, and each party shall bear the percentage of Loss or Damage for which it is legally responsible to third parties.

C. Each party hereto shall pay all Loss or Damage for which such party shall be liable under the provisions of this Agreement, and shall defend, indemnify and save harmless the other party against such Loss or Damage, including any such damages in any court action. Each party hereto shall have the right to settle, or
cause to be settled for it, all claims for Loss or Damage for which such party shall be liable under the provisions of this Agreement, and to defend or cause to be defended all suits for the recovery of any such Loss or Damage.

D. Each party shall give the other prompt written notice of any and all claims or suits arising from operations on or about the Railroad Easement.

E. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Stat. Ch. 466. Further, the Authority's obligations set forth in this Section 15 and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 16 - ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

A. Soo hereby represents and warrants as follows to the Authority, such representations and warranties to be true and correct on the closing date, that:

(1) Soo has provided to the Authority within 30 days of the execution of this Agreement all relevant and material environmental information with respect to the Property which is in Soo's possession. Soo may provide such information in summary fashion, but warrants that any summary so provided is fully representative of the environmental conditions of the Property known to Soo and

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that Soo has promptly provided all other relevant documents, data, test results, reports and recommendations requested by the Authority as it pertains to said summarized information. The summarized information will be set forth in Soo's Environmental Disclosure schedule which shall be identified as Exhibit I to this Agreement.

(2) Except as disclosed in any documentation provided by Soo to the Authority pursuant to this Section 16/herof and except as disclosed on Exhibit I (which is to be provided to the Authority within 30 days after the date of this Agreement), Soo has not generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9647, as amended) on the Property, nor has Soo undertaken any activity on the Property which has caused, or, to Soo's knowledge, would contribute to:
(i) the Property being or becoming a treatment, storage or disposal facility within the meaning of the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq., or any similar state law or local ordinance,

(ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants from the Property within the meaning of CERCLA or any similar state law or local ordinance,

(iii) the discharge from the Property of pollutants or effluent into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq., or the Clean Air Act, 42 U.S.C. Section 7401 et seq., or any similar law or local ordinance.

(3) Except as disclosed in Exhibit I, to Soo's knowledge, there is no existing claim or cause of action and there is no pending claim or cause of action against the Property under RCRA, CERCLA or any federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. § 115B ("MERLA") and the
Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C.

(4) Except as disclosed on Exhibit I, no above ground or underground tanks (i) have been located on the Property by Soo, or (ii) have been located on the Property by Soo and subsequently removed or filled. There are no known wells within the meaning of Minn. Stat. § 103I.005 on the Property except as described on Exhibit I.

SECTION 17 - ENVIRONMENTAL INDEMNIFICATION

A. Except as limited by this Section 17, Soo shall defend, indemnify and hold the Authority harmless from and against all claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature whatsoever to the extent that they (i) result from or arise out of Soo’s breach of any of the representations and warranties in Section 16 of this Agreement, or (ii) result from or arise as a result of the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property to the extent that same occurred prior to transfer of ownership of the Property to the Authority.
B. Soo’s obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is restricted to that where the response, removal, remediation or disposal is ordered or required by any federal, state or local government agency with jurisdiction over the same; however, response, removal, remediation or disposal shall be based upon techniques that reasonably accommodate the time needs of the Authority in using the Property as a transportation corridor.

C. Soo’s obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is further limited to that necessary for the Authority’s use of the Property as a transportation corridor, including, but not limited to, use as a railroad right-of-way, roadway, bike, pedestrian or other trailway and necessary facilities, including without limitation, station sites, maintenance facilities and other buildings incidental to use as a transportation corridor.

D. The Authority is responsible for the first $50,000 attributable to each Environmental Site up to an aggregate total of $250,000 for all Environmental Sites.

E. Soo is obligated to defend, indemnify and hold the Authority harmless for amounts over $50,000 attributable to each Environmental Site and for amounts in excess of the Authority’s aggregate amount of $250,000.
F. Notwithstanding anything else to the contrary in this Section 17, Soo’s obligation to defend and indemnify the Authority with respect to Environmental Sites shall be limited to an aggregate amount of $2,000,000.00 for any and all Environmental Sites.

G. Soo is not responsible for defending or indemnifying the Authority for Environmental Sites discovered after termination, pursuant to Section 12, of the Railroad Easement.

H. Each Party agrees to inform the other of notices and investigations of Environmental Sites and the Parties further agree to confer with respect to management of remediation.

I. All the terms, covenants, and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, executors and assigns.

SECTION 18 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party in this Agreement, all of which are relied upon by the each party shall survive and be enforceable after the closing date and any subsequent transfer of title of the Property.

SECTION 19 - LAWS GOVERNING

This Agreement shall be governed, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree
to comply with or abide by all laws relevant to this Agreement
governing their respective operations in the State of Minnesota.

SECTION 20 - LABOR RELATIONS

Soo and the Authority each shall be responsible for conducting
their own labor relations with any labor organization either
representing or seeking representation among either's employees,
and each shall regulate or seek to adjust all disputes that may
arise with respect to their employees without involving the other
party. Either party may freely enter into any contract with any
labor organization representing or seeking representation among its
own employees. Neither party shall obligate the other party to its
employees or to any union representing its employees. Each party
shall give written notice to the other of any labor dispute that
prevents or threatens to prevent timely performance under this
Agreement, including all relevant information concerning the
dispute that may impact upon this Agreement.

SECTION 21 - INDEPENDENCE OF PARTIES

Soo and the Authority hereby declare that they are acting
independently, and agree that in the performance of this Agreement
their actions are as independent contractors and not as an employee
of the other; nor are any of their respective employees considered
at any time an employee of the other. Soo has and hereby retains
full control of its business in the performance of this Agreement
and full control of all the employment, compensation and discharge
of all employees of Soo assisting in its performance hereunder.
Soo and the Authority each shall be fully responsible for all matters relating to payment of their employees, including compliance with Social Security, Railroad Retirement, withholding taxes and all other laws and regulations governing such matters. Soo and the Authority each shall be responsible for their own acts and those of their agents, officers, employees, lessees, and contractors during the term of this Agreement.

SECTION 22 - REMEDIES FOR BREACH. If the Authority fails to perform any of the terms or conditions of this Agreement within the specified time limits, Soo may declare this Agreement terminated or may have this Agreement specifically enforced. Likewise, if Soo fails to perform any of the terms or conditions of this Agreement within the specified time limits, the Authority may declare this Agreement terminated or may have this Agreement specifically enforced. The rights and remedies granted to the parties in this Section 22 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity, or otherwise); accordingly, the exercise by either party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 23 - ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties with respect to the sale and purchase of the Property. Neither party has relied on any statements or representations by the other party except as are set forth in this Agreement.
SECTION 24 - ASSIGNMENT: BINDING EFFECT. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including without limitation any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 25 - NOTICES. Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. If delivered at the closing, a notice shall be deemed given when hand-delivered to the party’s representative at the closing. The business addresses of the parties are as follows:

SOO

mailing address: P. O. Box 530
Minneapolis, Minnesota 55440
Attn: Director - Real Estate

delivery address: 1380 Soo Line Building
105 South 5th Street
Minneapolis, Minnesota 55402
Attn: Director - Real Estate

telecopier: (612) 347-8170
Attn: Director - Real Estate

THE AUTHORITY

mailing address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Director - Light Rail Transit
delivery address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Principal Right-of-way Agent

telecopier: (612) 348-9710
Attn: Principal Right-of-way Agent

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed. Either party may change its business address, for notice purposes, by giving notice of the change to the other party.

ATTEST:

[Signature]
Assistant Secretary

ATTEST:

[Signature]

By [Signature]
Its [Title]

SOO LINE RAILROAD COMPANY

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By [Signature]
Its Chairman

and

By [Signature]
Its Executive Director
Approved as to execution:

[Signature]
Assistant County Attorney

Dated: 1-5-93

Approved as to legality:

[Signature]
Assistant County Attorney

Dated: 12-23-92
EXHIBIT B

Legal Description of Property

All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)
RAILROAD EASEMENT

(reserved for valuation and tax data)  (reserved for recording data)

STATE DEED TAX DUE HEREON: $________

Date: ______________________, 19________

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Purchase Agreement between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated December 23, 1992. The real property is described as follows:

(Legal description on reverse of this document)

Hennepin County Regional Railroad Authority

By ________________

Its Chairman

By ________________

Its Executive Director

STATE OF MINNESOTA   )

COUNTY OF HENNEPIN  )ss

The foregoing was acknowledged before me this ______ day of _____________, 199____, by Vern T. Genzlinger, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

______________________________
Notary Public

This Instrument was drafted by:

Hennepin County Regional Railroad Authority
Southwest Street Level Government Center
300 South Sixth Street
Minneapolis, MN  55487-0016

Tax Statements for the real property described in this instrument should be sent to:
Description of Property Affected

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

Description of Railroad Easement to Expire (Insert Date of Severence at Hiawatha)

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over the above described property.
Description of Railroad Easement to Expire December 31, 2008

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over the above described property lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over the above described property lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis
EXHIBIT D 1 of 3
QUITCLAIM DEED

Date: ______________________, 199   

For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local governmental unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

That part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, all in Section 35, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

That part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southwest Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.
EXHIBIT D 2 of 3

(Abstract Property)

also:

That part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying south of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

[Seller certifies that seller does not know of any wells on the real property.] (insert as necessary)

SOO LINE RAILROAD COMPANY

By: ________________________________

Its: ________________________________

STATE OF MINNESOTA
COUNTY OF HENNEPIN

) SS

The foregoing quitclaim deed was acknowledged before me this _____ day of __________, 199___ by _____________________________ of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

Notary Public
Tax statements for the property should be sent to Grantee at:


EXHIBIT E

QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority the following property:

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY

By: ___________________________

Its: ___________________________

Date: _________________________
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<tr>
<th>Lessee/Licensee</th>
<th>Number</th>
<th>Type Agreement</th>
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| Minneapolis Com. Dev. Agency                         | None    | Environ. Rt. of Entry
Exhibit H

Formula to Calculate the Net Present Value of Future Lost Net Freight Revenue

Lost Net Revenue = The product of "A" and "T" discounted to the present value, using "C" as the discount rate when:

A = Average annual lost net freight revenue, before tax, from the then available records of the most recent two-year period. Revenues used in the projection should be adjusted to reflect those revenues reasonably expected to continue.

C = Cost of Capital determined by I.C.C. on the date of request by the Authority.

D₁ = Date of closing plus 20 years.

D₂ = Date of termination of Railroad Easement.

T = D₁ - D₂ (remaining term).
**Exhibit H**

**Formula to Calculate the Net Present Value of Future Lost Net Freight Revenue**

Lost Net Revenue = The product of "A" and "T" discounted to the present value, using "C" as the discount rate when:

\[ A = \text{Average annual lost net freight revenue, before tax, from the then available records of the most recent two-year period. Revenues used in the projection should be adjusted to reflect those revenues reasonably expected to continue.} \]

\[ C = \text{Cost of Capital determined by I.C.C. on the date of request by the Authority.} \]

\[ D_1 = \text{Date of closing plus 20 years.} \]

\[ D_2 = \text{Date of termination of Railroad Easement.} \]

\[ T = D_1 - D_2 \text{ (remaining term).} \]
Minneapolis to Hopkins Trail
The following Resolution was offered by Commissioner Opat, seconded by Commissioner Dorfman:

BE IT RESOLVED, that First Amendment to Permit Agreement No. 73-32001 with Suburban Hennepin Regional Park District, extending the Hopkins to Minneapolis Recreational Trail on Hennepin County Regional Railroad Authority property, from Beltline Boulevard in St. Louis Park, to the west end of the 29th Street Midtown Greenway - Phase I Trail at Chowen Avenue in Minneapolis, be approved; and that the Chair of the Board be authorized to sign the First Amendment on behalf of the Authority.

The question was on the adoption of the Resolution and there were 6 YEAS and 0 NAYS, as follows:

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<th>YEA</th>
<th>NAY</th>
<th>OTHER</th>
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RESOLUTION ADOPTED ON 10/03/00

ATTEST:

Secretary, HCRRA
RESOLUTION NO. 49-HCRRRA-98

The following resolution was offered by Commissioner Opat, seconded by Commissioner Stenger:

WHEREAS, Resolution 8-HCRRRA-84 authorized the purchase of abandoned Chicago and NorthWestern Transportation Company (CNW) right of way, located between the City of Hopkins and the City of Minneapolis; and

WHEREAS, the Suburban Hennepin Regional Park District (Hennepin Parks) desires to construct a recreational trail between the proposed 29th Street Greenway Trail and the existing Hopkins-to-Chaska Trail; and

WHEREAS, Hennepin Parks desires to enter into a permit agreement with Hennepin County Regional Railroad Authority for the purpose of constructing and maintaining a recreational trail in the Hopkins-to-Minneapolis Corridor, between 11th Avenue South, in the City of Hopkins, and Beltline Boulevard, in the City of St. Louis Park,

BE IT RESOLVED, that Permit Agreement 73-32001, with the Suburban Hennepin Regional Park District, for recreational trail purposes, be approved, and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were 6 YEAS and 0 NAYS as follows:

BOARD OF COMMISSIONERS
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

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<th>YEA</th>
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<tr>
<td>Mary Tambornino, Chair</td>
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<td>ABSENT</td>
</tr>
</tbody>
</table>

RESOLUTION ADOPTED SEPTEMBER 1, 1998

TEST: [Signature]
Mark Andrew, Secretary
FIRST AMENDMENT TO PERMIT AGREEMENT NO. 73-32001

THIS AGREEMENT, made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY ("Permittor"), a Minnesota political subdivision, and Suburban Hennepin Regional Park District ("Permittee"), a Minnesota political subdivision;

WITNESSETH:

WHEREAS, Permittor and Permittee entered into a certain Permit Agreement bearing Agreement No. 73-32001, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Rail Authority “Hopkins to Minneapolis Rail Corridor”, said Permit being set forth in Exhibit "I", attached hereto and made a part hereof by reference;

WHEREAS, Permittor and Permittee desire to amend the Permit in certain particulars;

NOW, THEREFORE, the parties mutually agree as follows:

Clause 1. "Premises" of the Permit is hereby amended by substituting the following therefor:

1. Premises

Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way from 11th Avenue South in the City of Hopkins, and including that part of the HCRRA Hopkins to Minneapolis Rail Corridor in the City of St. Louis Park, to the intersection of Chowen Avenue South and West 31st Street in the City of Minneapolis, generally conforming to the center 16 feet of the rail corridor, or generally conforming to that part within 8 feet on each side of the centerline of the trail where trail is not located in the center of the HCRRA rail corridor, and including a crossing of the HCRRA "Kenilworth" railroad trackage approximately 1,475 feet easterly of the east line of Beltline Boulevard in St. Louis Park, Minnesota, said trackage currently being used by the Twin Cities and Western Railroad Company, and including a connection to the west end of the existing 29th Street Midtown Greenway – Phase I Trail at Chowen Avenue South and West 31st Street, as delineated and colored green on HCRRA Property Maps numbered 28, 29, 2, 3, 4, 5, 6, and 31 and attached hereto as Exhibit A.

A more complete description will be prepared upon the completion of construction of the trail and the completion of "as built" construction plans and will replace and supersede the above description.

The said real estate shall be hereinafter described as the "Premises".
Clause 8. "Other Users" of the Permit is hereby amended by substituting the following therefore:

8. **Other Users**

Permittee shall use its best efforts to terminate or amend any permits or leases, or other written permission to the Premises, except as provided herein, which may previously have been extended to others by Permittee and which conflict with this Permit.

Permittee hereby acknowledges the presence and use of portions of the Premises and adjacent property for railroad purposes by the Soo Line Railroad Company and other users, including without limitation, Permittee and the Twin Cities and Western Railroad. Permittee agrees to coordinate activities with the railroad use to avoid disrupting or otherwise adversely affecting continued railroad use.

Clause 23. "Conditions of Premises Inspection" of the Permit is hereby amended by substituting the following therefore:

23. **Conditions of Premises Inspection**

Permittee accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Permittee as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

Permittee acknowledges and assumes all risks associated with the proximity of the Premises to the railroad right of way upon portions of the Premises and adjacent to the Premises and to any railroad operations thereon including, but not limited to, operations of the Soo Line Railroad Company and the Twin Cities and Western Railroad.

Clause 26. "Railroad Operations" is added as a new provision of the Permit:

26. **Railroad Operations**

Permittee agrees that the rights contained in this Permit Agreement are subject to and subordinate to the rights granted and contained in any agreements entered into by Permittee as to railroad operations over right of way upon portions of the Premises and adjacent to the Premises, including without limitation, agreements with the Soo Line Railroad Company and the Twin Cities and Western Railroad whether or not entered into on or after the commencement of this Permit Agreement. Permittee shall comply with all rules and regulations in regards to railroad operations on the right of way, including without limitation, those regarding safety. This Permit and all provisions thereof shall be subject to revision at any time if made necessary by any order or finding of the Surface Transportation Board or state authorities having jurisdiction over railroad operations.

Without limiting the foregoing, Permittee agrees that the rights contained in this Agreement are subject to and subordinate to the rights granted in the Trackage Rights
Agreement between Soo Line Railroad Company, Twin Cities and Western Railroad Company and Hennepin County Regional Railroad Authority entered into on August 10, 1998, Contract No. A18158, and Permittee agrees to be bound by the terms therein regarding the Kenilworth Trail including without limitation those contained in Sections 4.5 and 4.8. A copy of the Trackage Rights Agreement is attached hereto as Exhibit II and made a part of this Agreement. Further, Permittee agrees that the rights contained in this Agreement are subject to and subordinate to the rights granted in the Purchase Agreement between Soo Line Railroad Company and Hennepin County Regional Railroad entered into on December 23, 1992, and Permittee agrees to be bound by the terms therein regarding the easement granted, which covers the 29th Street Corridor including without limitation those contained in Section 14 regarding entry into the easement area. A copy of the Purchase Agreement is attached hereto as Exhibit III and made a part of this Agreement.

The effective date of this First Amendment to Permit Agreement No. 73-32001 is October 4, 2000.

Except as herein above amended, the terms, conditions and provisions of Permit Agreement No. 73-32001, shall apply to and govern the provisions of this Agreement.
IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of  

____________________, 20__.

HENNEPIN COUNTY REGIONAL  
RAILROAD AUTHORITY

Approved as to form:  

____________________
Assistant County Attorney  
Date: 9/28/00

By:  
Chair, Board of Commissioners
And:  
Executive Director

Approved as to form:  

Attorney for Suburban Hennepin Regional Park District  
Date: 

SUBURBAN HENNEPIN REGIONAL PARK DISTRICT

Approved as to execution:  

____________________
Assistant County Attorney  
Date: 9/28/00

Superintendent  
Date: 9-22-2000

Chair, Board of Commissioners  
Date: 9-21-00

Approved as to execution:  

Attorney for the Suburban Hennepin Regional Park District  
Date: 

PERMIT AGREEMENT
Hopkins to Minneapolis Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, a Minnesota political subdivision, ("Permittor") and Suburban Hennepin Regional Park District ("Permittee") a Minnesota political subdivision.

In consideration of the covenants by and between the parties, it is hereby agreed:

1. **Premises**

   Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

   That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way, located in the Cities of St Louis Park and Hopkins, generally conforming to the center 16 feet of the rail corridor, delineated and marked in green, as shown on the construction plans for the Southwest LRT Extension Trail and attached hereto as, Exhibit "A"

   The said real estate shall be hereinafter described as the "Premises."

2. **Uses**

   The Premises shall be for the temporary use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes, including but not limited to pedestrian use, cross country skiing, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. Permittee shall be granted temporary use of adjacent lands controlled by Permittor as reasonably required for construction and maintenance of the Premises.

3. **Term**

   The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 4.

4. **Termination**

   Either party may, at any time and for any reason, terminate this Permit by giving ninety (90) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center,
PERMIT AGREEMENT
Hopkins to Minneapolis Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, a Minnesota political subdivision, ("Permittor") and Suburban Hennepin Regional Park District ("Permittee") a Minnesota political subdivision.

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   That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way, located in the Cities of St Louis Park and Hopkins, generally conforming to the center 16 feet of the rail corridor, delineated and marked in green, as shown on the construction plans for the Southwest LRT Extension Trail and attached hereto as, Exhibit "A"

   The said real estate shall be hereinafter described as the "Premises."

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   The Premises shall be for the temporary use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes, including but not limited to pedestrian use, cross country skiing, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. Permittee shall be granted temporary use of adjacent lands controlled by Permittor as reasonably required for construction and maintenance of the Premises.

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   The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 4.

4. Termination

   Either party may, at any time and for any reason, terminate this Permit by giving ninety (90) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center,
Minneapolis, Minnesota, 55487, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the Suburban Hennepin County Park District by delivering a copy thereof to its Superintendent, 1261 County Road 9, Plymouth, Minnesota 55441. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

5. Temporary Nature of Use

Permittee acknowledges that the Premises was acquired by Permittor specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Permittor's intention to allow Permittee to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Permittor of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Permittor has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination

On the expiration of ninety (90) days after such service of said notice of termination, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. Permittee shall, without further notice or demand, deliver possession of the Premises to the Permittor at the expiration of said ninety (90) days and shall, before the expiration of said ninety (90) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Permittor, cease and Permittee's interest thereto shall be forfeited and at the same time shall belong to Permittor or, in such case, if the Permittor shall elect, it may, at any time after the expiration of said period of ninety (90) days, tear down and/or remove any or all such buildings and property at the expense of Permittee without any liability for damages thereof in any respect whatsoever and Permittee shall thereupon promptly reimburse Permittor for all expenses incurred by it in doing so.

7. Rent

Upon any such termination of this Permit, rent shall be paid by the Permittee to the date of termination fixed by said notice at the rate of $1.00 per year.

8. Other Users

Permittor shall use its best efforts to terminate or amend any permits or leases, or other written permission to the Premises which may previously have been extended to others by Permittor and which conflict with this permit.
9. **Subpermits**

   Permittee may grant permits to subpermittees only upon written agreement of Permitter. Any subpermit shall be on the same terms and conditions and for the same uses as are contained in this Permit.

10. **Signage**

   Permittee shall provide, install and maintain signage, including kiosks, on the Premises identifying the Premises as a temporary trail corridor of the Suburban Hennepin Regional Park District, by permission of the owner, the Hennepin County Regional Railroad Authority, until the Premises are used for light rail transit or other transportation uses.

11. **Nuisance, Waste**

   Permittee shall not permit the existence of any nuisance on said Premises. Permittee, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting Permittee's business and use and occupation of said Premises. Permittee, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that Permittee may post on appropriate structures, informational materials relating to the permitted uses. Permittee shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

12. **Utilities, Title, Existing Rights of Others**

   Permittee accepts said Premises subject to the rights of any person, firm or corporation, including the Permitter in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of Permittee's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, Permittee shall bear and pay the cost of so doing.

   Permittee also accepts said Premises subject to any want or failure at any time of Permittor's title to said Premises or any part thereof and Permittee shall assume any damages sustained by Permittee in connection therewith. Permittee also accepts such Premises subject to rights of any party, including Permittor, in and to any roadways, easements, leases and permits, whether granted, at Permittor's sole discretion, either prior to or after the date of this Permit Agreement. Permittee agrees to provide to Permittor or other tenants of Permittor access over and through the Premises on these roadways and easements should such access be deemed necessary by Permittor. Permittee accepts said Premises subject to the right of Permittor, its employees, agents, permittees, lessees, and contractors.
when reasonably necessary to walk upon said Premises to repair adjacent property and the right of Permittor, its employees, agents, permittees, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon Permittor's property.

13. Indemnification

Permittee shall defend, indemnify and hold harmless Permittor, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of Permittee, its agents, employees, customers, invitees, subpermittees, permittees, lessees or other occupiers of the Premises.

Permittor shall not be liable to Permittee or those claiming by, through, or under Permittee for any injury, death or property damage occurring in, on or about the Premises based upon the construction, operation or maintenance of the Premises by Permittee or any subpermittee, nor for the loss or damage by reason of the present or future condition of repair of the Premises, or for the loss or damage arising from the acts or omissions of Permittee, its agents, employees, customers, invitees, subpermittees, permittees, lessees, or other occupiers of the Premises.

14. Insurance

Permittee further agrees that if in any case the release and indemnity provided in this section shall not be valid, Permittor shall have the full benefit of any insurance effected by the Permittee upon the property injured, destroyed or damaged and/or against the hazard involved; and Permittee agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against Permittor in connection therewith.

15. Covenant

Permittee, in consideration of the permitting of the said Premises, as herein provided, hereby covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said Permittee and to yield up said Premises unto the Permittor at the expiration or termination of the Permit Agreement in as good condition as when entered upon.

16. Quiet Enjoyment

Permittor has the right and authority to enter into this Agreement and if Permittee pays the rent required hereby and otherwise performs the terms hereof to be performed by Permittee, Permittee shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding
the foregoing, Permittee acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 12.

17. **Waiver**

No receipt of money by Permittor from Permittee after any default by Permittee or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of Permittee shall be implied from omission by Permittor to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

18. **Breach**

It is further agreed between the parties hereto, that if the said Permittee shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after Permittee's receipt of written notice thereof from Permittor, then it shall be lawful for the Permittor, then or at any time thereafter, to declare this Permit ended, and to re-enter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 4; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of Permittor thereafter to avail itself of same and any subsequent breach thereof. In the event Permittor has to take action for repossession of said property, Permittee, its assigns or heirs shall be liable for reasonable attorney's fees incurred by Permittor.

19. **Assignment**

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the Permittee unless specifically stated herein. Permittor reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the Permittee or person occupying the Premises during the term of this Permit or any renewal thereof.
20. **Improvements, Maintenance**

Permittee shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises. Permittee shall also be responsible for the construction of all bridges and crossings including, without limitation, under or over passes, required pursuant to Paragraph 25 deemed necessary for Permittee to provide for any trails on the Premises or to otherwise use the Premises. Construction plans, if any, shall be submitted to the Permittor for review and comment. Permittor reserves the right to reject any plans for construction proposed by Permittee on the grounds, in Permittor's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises, or with the operations of the Soo Line Railroad Company or other railroad companies operating on the right of way adjacent to the Premises.

21. **Environmental Concerns**

Permittee shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. Permittee shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by Permittee, subpermittees or invitees during Permittee's period of use, including conditions introduced by Permittee, subpermittees, or invitees which affect other lands. Permittee expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. Permittee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Permittor discovers any such health or environmental impairment, and Permittee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Permittee shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Permittee may enter the Premises during regular business hours of Permittee without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of Permittee or without if Permittee reasonably believes that an emergency exists on the Premises. Permittee shall conduct any such inspections or testing so as to minimize interference with Permittee's operations. Permittee's entry on to the Premises pursuant to this paragraph shall not relieve the Permittee's obligation to pay rent under this Permit.

Permittee may make any inspections, tests, audits or reviews of the physical condition of the premises, all at Permittee's sole cost and expense. Such inspections and tests may include, without limitation, soil tests, soil borings, surveys, environmental audits, and other tests of the premises ("environmental inspections"). If Permittee elects to abandon its trail project and terminate this agreement due to its "environmental inspection", Permittee shall restore the property to its prior condition, and provide the Permittee with copies of all reports and test result. Permittee agrees to indemnify, defend, and hold the Permittee harmless from any and all actual out-of-pocket expenses incurred by
the by the Permittor related to containing or disposing of any contaminated materials released by such inspections.

In addition to the foregoing provisions of this Paragraph 21, and in exchange for the rights and privileges granted in this Permit Agreement Permitee hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for Permitee's use of the Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement provided, however, that should Permitee elect in its sole discretion to abandon its trail project and terminate this agreement, due to its “environmental Inspections,” Permitee shall not be obliged to bear expenses enumerated in this sentence. Further, Permitee agrees to defend, indemnify and hold harmless Permittor, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Permitee expressly agrees that the obligations it hereby assumes related to construction and operation of the park trail, shall survive the cancellation of this Permit.

22. Compliance with Laws, Ordinances and Rules

Permitee agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. Permitee agrees to comply with rules as may be promulgated from time to time by Permittor. Permitee may enforce its ordinances on the premises, as it applies to third parties.

23. Condition of Premises Inspection

Permitee accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Permittor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permitee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

Permitee acknowledges and assumes all risks associated with the proximity of the Premises to the railroad right of way adjacent to the Premises and to any railroad operations thereon including, but not limited to, operations of The Soo Line Railroad Company.
24. **Liens and Encumbrances**

Permittee shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by Permittee, its agents, employees, customers, invitees, subpermittees, lessees or other occupiers of the Premises pursuant to this Permit.

25. **Relocation**

Not withstanding the provisions of Paragraph 8 regarding other users, in the event relocation of Permittee’s trail is required to accommodate the relocation of rail traffic pursuant to Minn. Stat. 398A.04, Subd.1, as it may be amended, or otherwise is required to accommodate Permittor’s use of the corridor, Permittee shall be required at no cost to Permittor to relocate, remove or alter all or any part of Permittee’s trail improvements necessary to accommodate such use.
IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of

[Signature]

199.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: [Signature]
Chair, Board of Commissioners

And: [Signature]
Executive Director

SUBURBAN HENNEPIN REGIONAL PARK DISTRICT

[Signature]
Superintendent

Date: 9-17-98

[Signature]
Chair, Board of Commissioners

Date: 9-17-98

Approved as to form:

[Signature]
Assistant County Attorney
Date: 8-25-98

Attorney for Suburban Hennepin Regional Park District
Date:

Approved as to execution:

[Signature]
Assistant County Attorney
Date:

Attorney for Suburban Hennepin Regional Park District
Date:
EXHIBIT II

TRACKAGE RIGHTS AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY,
TWIN CITIES & WESTERN RAILROAD COMPANY
AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS Agreement, made and entered into this 10th day of August, 1998 by and between the SOO LINE RAILROAD COMPANY, a Minnesota corporation doing business as Canadian Pacific Railway (hereinafter sometimes called “Soo”), TWIN CITIES & WESTERN RAILROAD COMPANY, a Minnesota corporation (hereinafter sometimes called “TCW”) and the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota (hereinafter sometimes called the “Authority”).

RECITALS

The Authority presently owns a line of railroad approximately 2.5 miles in length, extending from a point of connection with Soo trackage in the City of St. Louis Park, in the vicinity of Lake Street and the westerly city limits of the City of Minneapolis, northeasterly to a point of connection with trackage owned and operated by The Burlington Northern and Santa Fe Railway Company in the vicinity of Cedar Lake, in the City of Minneapolis. The Authority acquired the right-of-way, bridges and other related structures, but not the trackage, west from the Chicago and North Western Transportation Company (hereinafter called “CNW”) in 1984. CNW retained ownership of the trackage, including rails and ties, and was granted an easement to continue freight service over said line of railroad.
On July 26, 1993, CNW granted overhead trackage rights to Soo and TCW over said trackage, subject to an Operating Agreement dated December 31, 1990 between CNW and the Authority.

CNW subsequently abandoned its operating rights over said railroad line and sold its interest in the trackage, including rail and ties, to the Authority. The Authority acquired the trackage subject to the trackage rights held by the Soo and TCW.

Soo and the Authority entered into an Agreement dated December 23, 1992 in which the parties agreed to cooperate in obtaining a rail route alternative to the 29th Street trackage in the City of Minneapolis, being acquired by the Authority pursuant to said Agreement. The Cedar Lake line of railroad described in the first recital has been identified by the parties as an alternative route under the December 23, 1992 Agreement.

The Soo and TCW desire to commence operations over this trackage on or after the date of this Agreement as a result of the implementation of the earlier agreements mentioned above.

The parties, therefore, agree as follows:

SECTION 1 - DEFINITIONS

1.1. "Agreement" shall mean this Agreement dated ____________, 1998. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

1.2. "Rail Line" is defined as the trackage and underlying right-of-way formerly owned by the CNW, extending from a point of connection with Soo Line trackage at or near CNW milepost 16.2 in the City of St. Louis Park, easterly to CNW milepost 13.7 at a point of connection with BNSF in the City of Minneapolis.

1.3. "Rail Corridor" shall mean the area where a right of use is created by this Agreement providing for operation by Soo and TCW over the Rail Line consisting of a corridor 50 feet in width centered on the Rail Line, except where the Authority does not own sufficient land to provide a 50-
foot corridor, and where the Kenilworth Trail as described in Section 1.5 is to be located less than 25 feet from the center line of the Rail Line. The Rail Corridor is further described in Exhibit A.

1.4 "Railroad(s)" shall mean the Soo and TCW.

1.5 "Kenilworth Trail" shall mean the public trail described in Exhibit B attached hereto.

1.6. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Rail Corridor, or in switching or handling railroad cars of the respective parties hereto.

1.7. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

1.8. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as "other track material"), ballast, all grade crossing signals and other signal and communication equipment located upon the Rail Line, and including trackage laid in and across public streets and highways.

SECTION 2 - GRANT OF RIGHTS

2.1. Subject to the terms and conditions in this Agreement, Authority grants to Soo and TCW, and their respective permitted assigns, non-exclusive rights to conduct railroad operations over the Rail Line within the Rail Corridor for the operation of freight trains, occasional passenger trains, locomotives, cabooses, rail cars, maintenance-of-way equipment and other rail equipment in common with other railroad users the Authority may admit to the joint use of the Rail Line in the future. This grant of rights shall be known as the Rail Corridor rights under this Agreement and
supersedes and replaces all other agreements, including trackage rights agreements between CNW and Soo, and between CNW and TCW, governing use of the Rail Line in the Rail Corridor.

2.2 The Authority shall convey a Railroad Easement to TCW in the form shown on Exhibit C attached.

2.3. Soo and TCW shall not have the right to set out, pick up or store cars or switch any existing or future industries on the Rail Line, or serve any industry or team tracks now or hereafter located on the Rail Line without the express written consent of the Authority. Neither Soo nor TCW may admit additional tenants, and assignment of existing operating rights shall require the consent of the Authority, except as otherwise provided in this Agreement.

2.4. Nothing in this Agreement is to be construed as establishing any common carrier status on the part of the Authority.

2.5. Soo and TCW acknowledge that, concurrent with the exercise of their rights and obligations under this Agreement, the City of Minneapolis will exercise rights granted to it by the Authority for the Kenilworth Trail (State Project No. 141-090-05) in proximity to the Rail Corridor as more fully described in Exhibit B and made a part of this acknowledgment.

SECTION 3 - RENT

3.1. The rental for use of the Rail Corridor payable by TCW or Soo, in addition to payment of any expenses provided elsewhere in this Agreement, shall be $7.50 per train mile, for each train operated by either TCW or Soo. To compute charges, the train mile rate shall be multiplied by 2.5 miles. Any movement of one or more pieces of railroad equipment over the Rail Corridor, except maintenance-of-way equipment and work trains while actually engaged in work on the Rail Corridor, shall be considered a train movement.

3.2. Rent shall be payable to the Authority quarterly. The rate of $7.50 per train mile shall be adjusted retroactively to July 1, 1992 and on each July 1 thereafter, by utilization of the Annual
Indices of Charge-Out Prices and Wage Rates (1977 = 100) Series RCR, included in the "AAR Railroad Cost Recovery Index", and supplements thereto, issued by the Association of American Railroads. In making such adjustment, the final "Material prices, wage rates and supplements combined (excluding fuel)" Index for the Western District for the calendar year 1990 shall be compared to the final Index for the calendar year immediately preceding the year in which such adjustment is to become effective. Said Train Mile Rate shall then be adjusted by the percentage of increase or decrease, as the case may be, in the Index of the year to be escalated as related to the year 1990, provided, however, that said Train Mile Rate shall never be less than $7.50. If the Association of American Railroads, or any successor organization or association, discontinues such Index, an appropriate substitute for determining in a similar manner the percentage of increase or decrease in the Train Mile Rate shall be agreed upon by the parties hereto.

3.3. At such time as use of, and the right to use, the Rail Corridor is terminated by written notice by either Soo or TCW, the terminating party shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any kind, except as may have arisen prior to such termination or by reason of other provisions of this Agreement. At such time as TCW relinquishes its right to use the Rail Corridor, Soo shall become obligated to pay a minimum Annual Rental until such time as Soo provides written notice to the Authority of its intention to permanently abandon Railroad rights to use the Rail Corridor. Soo shall be obligated to pay a minimum Annual Rental of $10,000 for any year in which rentals payable in accordance with Sections 3.1 and 3.2 do not reach $10,000. In such case, the minimum Annual Rental payment shall be in lieu of rental required under Section 3.1 and Section 3.2.

SECTION 4 - MAINTENANCE, CONTROL AND OPERATIONS

4.1. TCW shall have the exclusive management, direction and control of the Rail Corridor, including the obligation to dispatch rail traffic, at its sole cost and expense. In dispatching,
directing and controlling use of the Rail Corridor, TCW shall not discriminate against the trains of Soo or any other railroad tenants admitted to use of the rail line. In the event the Authority seeks to admit additional railroad tenants to use of the Rail Line, the Authority agrees to require such tenant to agree to terms, including liability, substantially as contained in this Agreement. The parties agree to renegotiate this Section 4 in the event any additional railroad tenants are admitted to use of the Rail Line by the Authority in order that additional costs incurred by TCW that are attributable to such additional tenants may be fairly compensated.

4.2(1) TCW shall perform all construction, derailment and wreck clearing, maintenance, repair and renewal of the Trackage, including any additions Soo or TCW may deem necessary or desirable for the safe and efficient operation of all trains. Any additions deemed necessary or desirable for the safe and efficient operation of trains will be paid for by the Railroad or Railroads requesting the same. The cost of derailment and wreck clearing are governed by Section 10. The Authority shall reimburse TCW for construction, maintenance, repair and renewal costs, as outlined in Section 4.3. The provisions of Sections 4.2(2) through 4.2(6) shall control as between the Railroads in the case of conflict with other provisions of this Agreement.

4.2(2) TCW shall employ all persons necessary to operate, maintain, repair and renew the Rail Corridor. TCW shall be bound to use only reasonable and customary care, skill and diligence in the operation, maintenance, repair, renewal and management of the Rail Corridor and Soo shall not, by reason of TCW’s performing or failing, or neglecting to perform any operation, maintenance, repair, renewal or management of the Rail Corridor, have or make against TCW any claim or demand for delay, loss, damage, destruction, injury or death whatsoever resulting from TCW’s performance, failure or neglect, except as otherwise provided in Section 10.3.
4.2(3) Soo, at its expense, shall install and maintain upon its trains, locomotives, cabooses and cars such equipment or devices as may now or in the future be necessary or appropriate, in the reasonable judgment of TCW for the safe and efficient operation of trains over the Rail Corridor.

4.2(4) If the use of the Rail Corridor is at any time interrupted or traffic over the Rail Corridor is delayed for any cause, TCW shall, with reasonable diligence, restore the line for the passage of trains of the parties. Neither Railroad shall have or make any claim against the other for loss or damage of any kind resulting from such interruption or delay.

4.2(5) The operation of Soo over the Rail Corridor shall at all times be in accordance with the General Code of Operating Rules, or such other rules as TCW and Soo agree upon, TCW timetables, bulletins, instructions and restrictions, but such rules, instructions and restrictions shall be reasonable, just and fair between all Railroads using the Rail Corridor and shall not unjustly discriminate against any of them. TCW shall provide Soo with a copy of existing rules and instructions and provide Soo with prior, written notice of any changes in such rules or instructions. These rules and instructions shall include, but not be limited to, General Code of Operating Rules, Timetables, Special Instructions, Bulletins, General Orders and authoritative directions of Train Dispatchers and Operating Officers and all applicable federal statutes and regulations regarding railroad safety.

4.2(6) All employees of Soo engaged in the operation of Soo trains over the Rail Corridor shall be required to qualify, at Soo’s expense, to operate over the Rail Corridor. TCW shall have the right to bar Soo employees from service over the Rail Corridor for cause until such time the barred individual is deemed to be qualified.

4.3. The Authority will reimburse TCW for construction, maintenance, repair and renewal costs on an annual basis upon presentation of a complete description of work done and materials used for the preceding calendar year. The Authority shall have the right to audit such billings and
to inspect work done upon reasonable notice. The Authority's obligation to reimburse TCW for such costs shall be limited to sixty percent (60%) of the trackage rights fees paid to the Authority by all users for the calendar year during which the maintenance charges were incurred, subject to an authorized minimum expenditure for maintenance cost of $16,000 per year in any year when trackage rights fees are not sufficient to justify expenditures to that level. The authorized minimum expenditure shall be adjusted annually from $16,000 beginning July 1, 1999 and thereafter in accordance with the formula set forth in Section 3.2 hereof. The authorized expenditures for maintenance, as limited by the foregoing, shall be known as the Maintenance Allowance. Any unexpended Maintenance Allowance may be drawn upon in future years for authorized expenditures, including the above minimum expenditure. TCW may draw, as additional Maintenance Allowance, an amount equivalent to a maximum of 100% of the prior year's rentals as calculated under Section 3, only for the following purposes:

1. To reach the authorized minimum expenditure for maintenance of $16,000 per year;

or

2. To carry out necessary bridge repairs or repairs to crossing signals.

If at any time the cumulative Maintenance Allowances justified by rental payments and this Section 4.3 are not sufficient to permit the safe and continued operation of the Rail Line, the additional maintenance and repair costs will be borne by the Authority. The Authority shall have no other obligation to reimburse TCW for construction, maintenance, repair or renewal costs, including long-term rehabilitation and capital expenditures.

4.4. Prior to commencement of operations over the Rail Corridor under this Agreement, MNDOT will arrange for rehabilitation of the Rail Line to FRA Class 2 standards. Following said commencement of operations, all maintenance, rehabilitation, renewal, reconstruction, repairs and improvements, replacement, including bridges, grade crossings and signals, will be the sole
responsibility of TCW to perform, the costs of which shall be reimbursed by the Authority, in accordance with Section 4.3.

4.5. TCW shall have a right of access over other portions of the Rail Corridor within 25 feet either side of the center line of the now existing Trackage for the sole purpose of maintaining said Trackage over the Rail Corridor, except as limited by the physical proximity of fencing for the pedestrian and bicycle trails as provided for in the Kenilworth Trail (Exhibit B). Provided, however, that TCW shall not have the right to remove trees and other vegetation found more than 15 feet either side of the center line of the now existing trackage, except for purposes of wreck clearance, track repair, visibility at grade crossings, or with the consent of the Authority.

4.6. Neither Soo nor TCW shall be permitted to erect any structures in or upon the Rail Corridor without the express written permission of the Authority. The Authority shall not construct any facility in or over the Rail Corridor where the vertical distance between the top of the rail or the ground surface of the Rail Corridor, and any part of the facility, is less than 23 feet.

4.7. Unless otherwise ordered by the State, the Authority shall not pay the expenses of any public crossing of the Rail Corridor which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo or TCW as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Rail Corridor, except as otherwise provided in this Agreement.

4.8. The Authority will permit construction of pedestrian and bicycle trails in proximity to the Rail Line as shown in Exhibit B. At any point where a trail is located within 25 feet of the center line of the Trackage, a fence along the boundary of the trail corridor will be provided, maintained and promptly repaired at no expense to Soo or TCW by the City of Minneapolis. No
trespassing and other appropriate warning signs shall be provided by the City. The Authority will require that the City agree to the terms of this provision.

SECTION 5 - TERMINATION

5.1. The Rail Corridor rights shall become effective upon execution of this Agreement, and shall continue in full force and effect until terminated by either TCW or Soo as to the respective rights of the terminating party upon thirty (30) days' written notice, which notice may be given at any time. Trackage, other facilities and all improvements to the Rail Corridor will remain the property of the Authority. The permanent easement conveyed, however, may not be terminated by the Authority, except in accordance with this Agreement.

5.2. At such time as either Railroad desires to terminate its rights over the Rail Corridor, such Railroad shall have the obligation to obtain necessary Surface Transportation Board ("STB") and other regulatory approval that may be required. The Authority agrees to cooperate in seeking regulatory approval.

5.3. TCW and Soo will vacate all use of, and permanently terminate all rights to use, the Rail Corridor no later than thirty (30) days after a new connection between the Soo Hopkins line (TCW's current operating route) and the former Minneapolis, Northfield & Southern line in St. Louis Park (MNS connection), and between the MNS and The Burlington Northern and Santa Fe Railway (BNSF connection) becomes operational, or at such time as any other feasible alternative to use of the Rail Corridor satisfactory to TCW becomes available and is operational. The MNS connection and the BNSF connection are shown on Exhibit D attached to this Agreement.

SECTION 6 - CONDITIONS PRECEDENT

Operation over the Rail Corridor is contingent upon obtaining any required regulatory and government approvals, and any necessary corporate authorization.
SECTION 7 - TAXES

7.1. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority’s ownership, leases, air rights development, and/or operations. TCW and Soo agree to pay promptly to taxing authorities when due all Taxes, if any, with respect to their use or operations duly levied, to the extent Soo or TCW’s property rights have been separately assessed by the appropriate assessing authority while either TCW or Soo are conducting operations over the Rail Corridor. To the extent TCW’s property right is not so separately assessed to TCW, but the underlying fee in the Rail Corridor is assessed as railroad operating property and would be exempt except for TCW’s use in operations, then TCW agrees to pay all such Taxes duly levied while conducting operations over the Rail Corridor. TCW reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith litigate and settle with the taxing authority any such protested amount. This subparagraph 7.1 will apply to Soo for any period during which Soo exercises its operating rights.

7.2. The Authority shall pay without reimbursement from Soo or TCW all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 8 - ASSIGNMENT RIGHT

Soo may admit a third-party operator as assignee of Soo’s common carrier freight service obligation, or in connection with the sale of, or merger of, all or most of its railroad system, subject to the consent of the Authority, which shall not be unreasonably withheld, and subject to orders of the Surface Transportation Board (“STB”). TCW may admit a third-party operator as assignee of TCW’s common carrier freight service obligation in connection with the sale of, or merger of all or most of its railroad system, subject to the consent of the Authority, which shall not be unreasonably withheld, subject to the orders of the STB.
SECTION 9 - OBLIGATIONS FOLLOWING TERMINATION.

Upon termination of all rights to the Rail Corridor, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.

SECTION 10 - LIABILITY AND ENVIRONMENTAL INDEMNIFICATION.

10.1. TCW agrees to defend, indemnify and hold harmless the Authority, its commissioners, officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys’ fees, resulting directly or indirectly from any act or omission of TCW, its agents, employees, customers, tenants, or invitees, occurring on or from the Rail Corridor after the effective date of this Agreement, except that portion of liability caused by, or contributed to by, acts or omissions of the Authority, its agents, employees and invitees, notwithstanding the provisions of Section 12.

10.2. Soo agrees to defend, indemnify and hold harmless the Authority, its commissioners, officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys’ fees, resulting directly or indirectly from any act or omission of Soo, its agents, employees, customers, tenants, or invitees, occurring on or from the Rail Corridor after the effective date of this Agreement, except that portion of liability caused by, or contributed to by, acts or omissions of the Authority, its agents, employees and invitees, notwithstanding the provisions of Section 12.

10.3 The Authority agrees to defend, indemnify and hold harmless Soo and TCW, their respective officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys’ fees, resulting directly or indirectly from any act or omission of the Authority, its commissioners, officers, agents and employees, tenants, customers or
invitees occurring on the Rail Corridor after the effective date of this Agreement, except that the Authority shall not be required to defend, indemnify or hold TCW harmless to the extent the liability is caused or contributed by acts or omissions of TCW, and the Authority shall not be required to defend, indemnify or hold Soo harmless to the extent the liability is caused or contributed by acts or omissions of Soo, notwithstanding the provisions of Section 12.

10.4 Railroads. In the event Soo commences operations on the Rail Corridor, Soo and TCW shall allocate liability as between them only as follows.

Definition: Whenever the expression “Loss or Damage” is used in this Section 10.4, it means all costs, liabilities, judgments, fines, fees (including without limitation reasonable attorneys’ fees and disbursements) and expenses of any nature arising from or in connection with death of or injury to persons, including without limitation employees of the Railroads, or damage to or destruction of property including without limitation property of the Railroads or the Rail Corridor, in connection with operations of the Railroads over or on the Rail Corridor.

Definition: Whenever the expression “proportionally by the Railroads” is used in this Section, it means that expenses will be borne in proportion to the total trains handled by each Railroad over any part of a segment of the Rail Corridor on which the Loss or Damage occurs during the three calendar months prior to the month of the occurrence, or if the occurrence is in any of the first three months of operation under this Agreement, such lesser period as precedes the date of occurrence. For the purposes of determining proportionality as herein provided, light engines shall not be considered a trains. In case of conflict with other provisions of this Agreement, the provisions of Section 10.4 shall control as between the Railroads.

10.4(1) The employees of either Railroad while operating, maintaining or directing operation along the Rail Corridor shall not be considered as joint employees but will remain the sole employees of either Railroad. However, when any sole employee of TCW or Soo is engaged in the
direct activity of maintaining, repairing, renewing, removing, or inspecting the Rail Corridor, or in
dispatching, giving orders for or directing the movement of trains over the Rail Corridor for the
common benefit of the Railroads, and Loss or Damage to TCW, Soo or a third party, arises out of
such service for the common benefit of the Railroads, then the expense of the Loss or Damage shall
be borne proportionally by the Railroads; provided that the terms of this Section 10.4(1) shall control
in the case of conflict with the provisions of Section 10.4(3) below, but in the case of conflict with
Section 10.4(2) below, that Section shall control.

10.4(2) Notwithstanding anything else contained in this Agreement, liability for Loss or Damage resulting from or in connection with the operation of locomotives, trains or cars of either Railroad, or in connection with the presence on the Rail Corridor of locomotives, trains, cars or property of either Railroad, shall be borne and paid by the Railroads as follows:

(a) When the same shall involve the train or equipment of only one of the Railroads, regardless of any third party involvement, all Loss or Damage, including but not limited to, restoration and repair of the Rail Corridor and third party persons or property will be borne by that Railroad.

(b) When the same shall involve the trains or equipment of both Railroads, Loss or Damage shall be borne by each Railroad as to its own employees, property, or property in its custody (except for damage to the Rail Corridor). As to third party persons or property and the Rail Corridor, Loss or Damage shall be borne equally by the Railroads.

10.4(3) Liability for Loss or Damage not involving the train or equipment of either Railroad, or where the identity of the train or equipment involved is unknown, shall be borne and paid by the Railroads as follows:

(a) Liability for Loss or Damage shall be borne by each Railroad as to its own employees (except for employees performing services for the common benefit of the
Railroads), property (other than the Rail Corridor), or property in its custody, but as to third
party persons or property, employees performing service for the common benefit of the
Railroads, and the Rail Corridor, the cost of Loss of Damage shall be borne proportionally
by the Railroads.

(b) Third party claims for Loss or Damage arising out of the killing or injuring
of livestock or the setting of fires on or along the Rail Corridor, when caused by the
locomotive, train, car or fusee of one of the Railroads, shall be handled or settled by the
Railroads whose locomotive, train, car or fusee caused such Loss or Damage, but if it cannot
be determined whose locomotive, train or car caused such Loss or Damage, the claim will
be handled or settled on behalf of both Railroads in the first instance by TCW, and the Loss
or Damage will then be borne equally by the Railroads.

10.4(4) Each Railroad agrees that it will pay for all Loss or Damage, the risk of which it has
herein assumed, the judgment of any court to the contrary notwithstanding, and will forever
indemnify and save harmless the other Railroad, its successors and assigns, from such payment;
provided, however, the indemnifying Railroad shall be assigned any rights which the indemnified
Railroad may have against any third party or parties for recovery of any indemnified amount.

10.4(5) In the event that both Railroads hereto shall be liable under the Agreement for Loss
or Damage, and the same shall be compromised and settled by voluntary payment of money or
valuable consideration by one of the Railroads, the settling Railroad shall obtain a valid and
effective release from liability for TCW and Soo Line Railroad Company, Soo Line Corporation
and their Parents, Subsidiaries and Affiliated Companies, and all of their Officers, Agents, and
Employees, etc. Neither Railroad shall make any such compromise or settlement in excess of $5,000
without prior, written authority of the other Railroad having liability, but any settlement made by
one Railroad in consideration of $5,000 or less shall be a settlement releasing all liability of both Railroads and shall be binding upon both Railroads.

10.4(6) In case a lawsuit or lawsuits shall be commenced against either Railroad hereto for or on account of any Loss or Damage for which the other Railroad would be solely or jointly liable under this Agreement, the Railroad thus sued shall give the other Railroad timely written notice of the pendency of such suit, and thereupon the Railroad so notified shall assume or join in the defense thereof, and if the Railroad so notified is liable therefore under this Agreement, such Railroad shall save harmless the Railroad so sued from all Loss or Damage in accordance with the liability allocation set forth in this Agreement. Neither Railroad shall be bound by any judgment against the other Railroad unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified, and said opportunity to join in the defense of the action has been afforded, the Railroad so notified shall to the extent of its liability under this Agreement be bound by such judgment.

10.4(7) If trains, locomotives or cars of Soo are wrecked or derailed on the Rail Corridor, TCW shall arrange to pick up and remove said equipment, and Soo shall bear the entire cost of such service (except to the extent that the allocation of liability in this Agreement provides otherwise), except that if TCW does not have the necessary personnel or equipment, Soo may furnish both as required, at its own expense; provided, however, that in the case of a minor derailment where the derailed equipment can be promptly rerailed by rerailers or blocking by Soo's employees, then in such event Soo may, at its sole expense, rerail such equipment unless TCW's supervisory employees direct otherwise.

10.4(8) It is understood and agreed that a number of vehicular crossings on the Rail Corridor presently exist, or may be constructed. Soo agrees to accept all crossings in whatever condition they may be during the term of this Agreement and will not assert any claim, demand or cause of action
against TCW and will hold TCW harmless from any claim, demand or cause of action arising out of any crossing accident on the Rail Corridor in which the engines, cars or trains of Soo only are involved; provided, however, that nothing in this Section 10.4(8) shall relieve TCW or Soo from liability arising from its gross negligence or intentional acts.

10.5. Soo shall remediate any environmental pollution or contamination on the Rail Corridor that is in violation of any applicable environmental statute, ordinance, rule or regulation, which first occurred during its period of use and was caused by Soo or its invitees. Soo shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any such conditions on the Rail Corridor caused by Soo, or its invitees during Soo’s period of use, including conditions caused by Soo or its invitees which affect other lands. Soo expressly agrees that the obligations it hereby assumes shall survive cancellation of this Agreement. Soo agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until the Authority discovers any such conditions and Soo hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

10.6. TCW shall remediate any environmental pollution or contamination on the Rail Corridor that is in violation of any applicable environmental statute, ordinance, rule or regulation which first occurred during its period of use and was caused by TCW or its invitees. TCW shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any such conditions on the Rail Corridor caused by TCW, or its invitees during TCW’s period of use, including conditions caused by TCW or its invitees which affect other lands. TCW expressly agrees that the obligations it hereby assumes shall survive cancellation of this Agreement. TCW agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until the Authority discovers any such conditions and TCW hereby knowingly and voluntarily waives the benefits of any shorter limitation period.
10.7. Authority shall have the right, but not the duty, to enter upon the Rail Corridor from
time to time as set forth below to inspect the Rail Corridor for environmental contamination and in
the course thereof to conduct soil and groundwater testing and to perform environmental
investigation, remediation or mitigation. Authority may enter the Rail Corridor upon 24 hour notice
to TCW and Soo, and may enter the Corridor in the case of an emergency, without prior notice, but
the Authority shall give TCW and Soo immediate notice of the emergency. Authority shall conduct
any such inspections or testing so as to not to interfere with Soo’s and TCW’s operations and shall
provide sufficient notice of actions that might impair safe train operation. Authority’s entry on to
the Rail Corridor pursuant to this paragraph shall not relieve Soo’s and TCW’s obligations to pay
rent under this Agreement.

10.8. At the request of the Authority, Soo (if Soo commences operations over the rail
corridor) and TCW shall pay for the services of a state-approved contractor to sample what appears
to be any visibly contaminated areas of the Rail Corridor for which they respectively appear to be
responsible. For any contaminated areas, Soo’s and TCW’s respective contractor shall provide
remediation recommendations to the Authority, and shall provide remediation as may be required
by law. Copies of the results shall be forwarded to the Authority to ensure that the Rail Corridor is
returned to the Authority reasonably free of contamination and in compliance with all applicable
environmental law, ordinances, regulations and requirement. The provisions of this paragraph shall
survive the termination of this Agreement.

Notwithstanding the foregoing, Soo and TCW is not responsible, by virtue of the terms of
this Agreement, for any testing or sampling costs resulting from contamination existing on the Rail
Corridor prior to their respective use or occupancy of the Rail Corridor, or which was not caused by
TCW or Soo or their invitees, or where no contamination was found.
10.9. Each party shall give the other parties prompt written notice of any and all claims or suits arising from operations on or about the Rail Corridor.

10.10. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as, nor operate as, waivers of the Authority's statutory or common law immunities or limitations on liability, including, but not limited to, Minnesota Statutes Chapter 465. Further, the Authority's obligations set forth in this Section and otherwise in this Agreement, are expressly limited and governed by the provisions of Minnesota Statutes Chapter 466, Minnesota Statutes Chapter 604, and any other applicable law or regulation.

SECTION 11 - INSURANCE.

11.1 TCW, at its own cost or expense, will procure and maintain in effect during the term of this Agreement, a policy or policies of insurance covering the liability to which TCW is or may be subject under this Agreement. Such policy shall name Soo as an additional insured which shall provide the following total coverage:

Third party liability coverage covering injury to or death of persons and damage to property in any one occurrence in the amount of not less than $10,000,000 (ten million dollars) with a maximum deductible of $100,000 (one hundred thousand dollars) per occurrence. Such coverage shall include all employees and shall insure named insureds against workmen's compensation and Federal Employers' Liability Act claims. Soo agrees to cooperate in the processing of insurance claims.

11.2. If the insurance procured by TCW, pursuant to this Section, takes the form of a claims-made policy and is cancelled or allowed to expire without renewal, TCW may provide evidence of insurance that provides per occurrence and annual aggregate limits of not less than those
required pursuant to Section 11.1 Such coverage must be retroactive to the original inception date of the cancelled or non-renewed policy.

11.3. At any time not less than sixty (60) days prior to an anniversary date of this Agreement, Soo, in consideration of current and reasonably anticipated claims and litigation costs, may notify TCW of Soo’s intent to increase the amount of insurance required by this Agreement or to require that the terms and conditions of such insurance be modified. Should TCW object to any such increase or modification, TCW and Soo will attempt in good faith to negotiate a resolution of their disagreement. If TCW and Soo are not able to agree and such disagreement continues for thirty (30) days past the anniversary date of this Agreement, then the matter or matters in disagreement will be submitted to arbitration in accordance to the rules of the American Arbitration Association.

11.4. Each policy of insurance obtained by TCW pursuant to the requirement of this Section will contain provisions requiring that the insurance carrier give Soo, through the Soo’s Director of Insurance, at least thirty (30) days’ notice, in writing, of any proposed policy cancellation or any modification of the terms and conditions of any policy of insurance TCW is required to provide under this Section.

11.5. The terms and conditions of each policy of insurance obtained by TCW to satisfy the requirements of this Section will be subject to the approval of Soo, which approval shall not be unreasonably withheld or delayed. TCW will furnish to Soo’s Director of Risk Management an accurate copy of each policy of insurance obtained pursuant to the requirements of this Section. Neither compliance with this requirement nor Soo’s approval of the terms and conditions of any such policy will in any way limit or modify the obligation of TCW to provide the specific insurance coverage required by this Section.

11.6. In the event TCW fails to maintain the levels of insurance coverage required in this Section, or fails to properly notify Soo of said coverage, after giving TCW written notice of
noncompliance and then (10) days from receipt of such notice within which to comply, Soo may require TCW to suspend operations over the Rail Corridor until such time as TCW complies with the insurance requirements hereunder or otherwise provides Soo evidence of financial responsibility acceptable to Soo in its sole discretion.

SECTION 12 - REPRESENTATIONS AND WARRANTIES

Soo and TCW accept the Rail Corridor and the Rail Line in an “as is” condition, with no express or implied representations or warranties by the Authority as to the physical condition or fitness or suitability for any particular purpose, express or implied, except as otherwise provided in this Agreement. Soo and TCW are responsible for, had ample opportunity to inspect the Rail Line and are familiar with the same. As between the parties, Soo and TCW acknowledge the risks to their rail operations associated with the proximity of the Rail Line to the pedestrian and bicycle trails adjacent to the Rail Corridor. Soo and TCW do not assume liability for damages to the property of third persons or for injury to third persons by reason of Soo or TCW rail operations on the Rail Corridor nor waive any claims they might have against such third persons.

SECTION 13 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party to this Agreement, all of which are relied upon by each party, shall survive and be enforceable after the execution of this Agreement and any subsequent transfer of title of the Property.

SECTION 14 - LAWS GOVERNING

This Agreement shall be governed to the extent applicable and not preempted by federal law, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree to comply with or abide by all laws relevant to this Agreement governing their respective operations in the State of Minnesota.
SECTION 15 - REMEDIES FOR BREACH

Should Soo or TCW default in any payments to be made hereunder or fail to faithfully perform any of their covenants herein or violate any term or condition of this Agreement and, if such default, failure or violation shall continue for a period of sixty (60) days after the Authority shall have given Soo or TCW notice of an “event of default”, the Authority may thereupon exclude Soo or TCW, as the case may be, from all the rights and privileges granted to it hereunder, and Soo and TCW shall have no claim or depend upon the authority at law or in equity on account of such exclusion. The rights and remedies granted to the parties in this Section 14 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity or otherwise); accordingly, the exercise by any party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 16 - ASSIGNMENT; BINDING EFFECT

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, including without limitation, any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 17 - NOTICES

Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. The business addresses of the parties are as follows:

SOO:

Mailing Address: P.O. Box 530
Minneapolis, Minnesota 55440
Attention: Director - Commercial Development
Delivery Address: 1710 Soo Line Building
105 South 5th Street
Minneapolis, Minnesota 55402
Attention: Director - Commercial Development

Fax: 612/347-8064
Attention: Director - Commercial Development

TCW:

Mailing Address: 2925 - 12th Street East
Glencoe, MN 55336
Attention: President
320/864-7220

THE AUTHORITY:

Mailing Address: Hennepin County Regional Railroad Authority
and Delivery A2300 Government Center
Minneapolis, MN 55487-0230
Attention: Executive Director
Fax: 612/348-8228

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect
and may be disregarded by the party to whom they are directed. Either party may change its
business address, for notice purposes, by giving notice of the change to the other party.

ATTEST:

Soo Line Railroad Company
By: 
Its: 

Twin Cities & Western Railroad Company
By: 
Its: Chairman.

ATTEST:

Title: Mar. Contracts
Approved as to Form

[Signature]
Assistant Hennepin County Attorney
Date: 8/5/98
Approved as to Execution

[Signature]
Assistant Hennepin County Attorney
Date: 8/6/98

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: [Signature]
Its: Chair
and

By: [Signature]
Its: Executive Director
RAILROAD EASEMENT

STATE DEED TAX DUE HEREON: $__________

Date: August 10, 1998

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Twin Cities and Western Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Trackage Rights Agreement between the Twin Cities and Western Railroad Company, Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated August 10, 1998. The real property is described as follows:

Legal description on Exhibit A)

Hennepin County Regional Railroad Authority

By Mary Jamborino
Its Chairman

By Jeff Spartz
Its Executive Director

STATE OF MINNESOTA )
) ss
COUNTY OF HENNEPIN )

The foregoing was acknowledged before me this 10th day of August, 1998, by Mary Jamborino and Jeff Spartz, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

Mary Ellen Hudson
Notary Public

This instrument was drafted by:

Hennepin County Regional Railroad Authority
417 North Fifth Street, Suite 320
Minneapolis, MN 55401-1362

Tax Statements for the real property described in this instrument should be sent to:
EXHIBIT A

Description of Railroad Easement

A strip of land fifty feet in width lying 25 feet on either side of the centerline of the railroad tracks extending from the point of connection with Soo Line trackage at or near Chicago North Western Railway milepost 16.2 in the City of St. Louis Park, easterly to Chicago North Western Railway milepost 13.7 at a point of connection with Burlington Northern Santa Fe Railway in the City of Minneapolis except as the width is limited by the Trackage Rights Agreement between the Twin Cities and Western Railroad, Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated Aug. 10, 1992.
EXHIBIT III

PURCHASE AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS AGREEMENT, made and entered into this 23rd day of

December, 1992, by and between the Soo Line Railroad
Company, a Minnesota corporation, hereinafter sometimes called
"Soo", and the Hennepin County Regional Railroad Authority, a
political subdivision and local government unit of the State of
Minnesota, hereinafter sometimes called the "Authority".

RECITALS

Soo presently owns and operates a line of railroad parallel
with the approximate alignment of 29th Street South in the City of
Minneapolis, County of Hennepin, State of Minnesota between
Hiawatha Avenue and France Avenue sometimes referred to as the 29th
Street Corridor.

The State of Minnesota Department of Transportation and the
City of Minneapolis propose to reconstruct Hiawatha Avenue between
Lake Street and 24th Street South in the City of Minneapolis and
desire to eliminate all Soo rail crossings of Hiawatha Avenue
within this segment.

Soo is willing to alter its operations in and through the City
of Minneapolis to accommodate the Hiawatha Avenue improvements and
is willing to sever its rail line across Hiawatha Avenue, providing
alternate rail routes are provided for Soo and other railroads
presently using the Soo crossings of Hiawatha Avenue under trackage
rights agreements. Soo also expects to be compensated for any increased operating expense resulting from use of alternate routes.

Elimination of rail links across Hiawatha between Lake Street and 24th Street will save substantial sums of money for all governmental agencies involved in funding the Hiawatha Avenue reconstruction.

The Authority desires to acquire by purchase the 29th Street Corridor from Hiawatha Avenue west to France Avenue for future use for public transportation purposes. Acquisition and utilization of said corridor will sever the rail links across Hiawatha substantially accommodating the Hiawatha Avenue reconstruction.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

SECTION 1 - DEFINITIONS

A. "Agreement" shall mean this Agreement dated 1/2-23, 1992. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

B. "Property" is defined in Section 2A and shown on Exhibit A and Exhibit B to this Agreement.

C. "Railroad Easement" shall mean the easement created by this Agreement and legally described in Exhibit C, providing for the continuation of Soo's present operation of common carrier freight railroad service for a limited period of time and the use of the Property to be acquired by the Authority as a result of this Agreement as may be necessary for said railroad operations.
D. "Loss or Damage" includes any and all claims, liabilities, damages, costs, judgments, and expenses (including reasonable attorneys' fees and expenses) of every character incident to loss or destruction of or damage to Property and injury to or death of persons, arising upon or as a result of any operations conducted under the terms of this Agreement.

E. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Railroad Easement, or in switching or handling railroad cars of the respective parties hereto.

F. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

G. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as other track material), ballast, all grade crossing signals and other signal and communication equipment located upon the Property, and including trackage laid in and across public streets and highways.

H. "Environmental Site" shall mean the physical location from which emanates any claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature resulting from
the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property.

SECTION 2 - PROPERTY TO BE ACQUIRED

A. Soo agrees to sell and the Authority agrees to buy all of Soo's interest in the railroad right-of-way presently owned and operated by Soo along the approximate alignment of 29th Street South in the City of Minneapolis between the east right-of-way line of Hiawatha Avenue and the westerly city limits of the City of Minneapolis all as shown and described in Exhibits A and B attached (the Property). Included in the Property to be sold are the following:

1. Soo's interest in all lines of railroad between Cedar Avenue and Hiawatha Avenue, some of which cross Hiawatha Avenue in the vicinity of 28th Street and the other crossing Hiawatha Avenue in the vicinity of 26th Street.

2. Soo's interest in any industrial spurs or other spur track rights of way appurtenant to the right-of-way.

3. Soo's interest in any bridges, retaining walls, and other similar structures upon, over, under, across, or appurtenant to the right-of-way, but excluding grade
crossing protection signals and other signal and communication equipment.

(4) Soo's interest in any permits, licenses, ordinances, easements, or other rights permitting the occupation of the right-of-way and the operation of a railroad over the Property including (but not limited to) rights to cross, traverse, or operate in or upon public streets and rights of way, but excluding Soo's rights and obligations to provide common carrier freight rail service on the Property:

(5) Soo's interest in the railroad right-of-way located in public streets and other public rights of way.

(6) Valuation maps, plats, deeds of conveyance, and other similar records relating to Soo's ownership of the right-of-way. Except as provided herein, the originals of such records shall be delivered to the Authority within a mutually convenient and reasonable time following the closing. A copy may be delivered in lieu of the original under the following circumstances: (i) the original is unavailable, (ii) the record also pertains to Soo property other than the 29th Street Corridor, or (iii) the original record is reasonably required by Soo during the term of the Railroad Easement (as defined in this Agreement), in which event the original shall be delivered to the Authority promptly after the termination of the Railroad Easement.
B. Trackage is excluded from the property to be sold, except as otherwise provided by Section 12.

C. Notwithstanding acquisition of the Property by the Authority, the Authority grants use of a portion of the Property for purposes of the Railroad Easement and limited access to other portions of the Property solely for maintaining and performing Railroad operations upon the Railroad Easement, under the terms set forth in this Agreement. The Authority reserves the right to enter, and make alterations upon, the Railroad Easement, provided that such entry and alterations do not unreasonably interfere with Soo railroad operations and are in accord with other provisions of this Agreement.

SECTION 3 - CONVEYANCE AND CLOSING

A. The property will be conveyed at the closing by quit claim deed and bill of sale in a form consistent with Exhibits D and E and such other documents or evidence as the Authority or its counsel may reasonably request or as required by applicable law.

B. The Railroad Easement will be conveyed in a form consistent with Exhibit C which provides that the Railroad Easement is governed by the terms of this Agreement and shall be delivered at the closing.

C. The closing of this transaction shall occur on or before June 1, 1993, at 10:00 a.m. at the office of the Authority, Southwest Street Level Government Center, Minneapolis, Minnesota or at such other time or place as may be mutually agreed upon by the parties.
D. The Authority will purchase, affix, and cancel any and all documentary stamps in the amount prescribed by statute, and will pay any and all deed taxes, transfer taxes, excise taxes, sales taxes, use taxes, and fees incidental to the transfer of the Property or the recordation or filing of the deed or deeds.

SECTION 4 - PAYMENT

A. The Authority agrees to pay funds in the following amounts to Soo for the Property in accordance with the terms and conditions of this Section and in accordance with other terms of this Agreement. All amounts are net to Soo and shall be paid by immediately negotiable warrant. The funds so paid will constitute full and final payment by the Authority to Soo for each of the following defined items:

1. $9,000,000 for all of the Property described in Section 2 and Exhibits A and B.

2. As full and final compensation for all increased operating costs and trackage rights:

   a. $688,000 for trackage rights incurred by Soo and its railroad tenants in transporting rail traffic via alternate routes that now originates or terminates on the Property, or traverses the Property, so long as such traffic continues, subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority
anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(b) $158,000 for increased operating costs incurred by Soo to continue to serve customers originating or terminating traffic on the Property after Soo's present line of railroad is severed at Hiawatha Avenue, all subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(c) Payment for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.
B. The payments described in 4A will be paid in the amounts and at the times set forth as follows:

(1) $8,250,000 at closing.

(2) $750,000 after termination of the Railroad Easement in accordance with Section 12 of this Agreement. Said sum will be deposited as the Railroad Easement Escrow in an interest bearing escrow account or certificate of deposit with interest earned to be reinvested in the escrow account. The entire balance of the Railroad Easement Escrow account including accrued interest, less the costs associated with said account, will be disbursed to Soo upon the written authorization of the Authority, which shall be given upon termination of the Railroad Easement in accordance with Section 12.

C. The payments described in 4A(2) for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.
SECTION 5 - CONDITIONS PRECEDENT TO CLOSING

A. General Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement will be subject to fulfillment on or before the closing date of all of the following conditions, any of which may only be waived by the Authority in writing.

(1) Closing of this transaction is contingent upon obtaining of any required regulatory and other governmental approvals.

(2) Closing of this transaction is contingent upon the Authority obtaining commitments satisfactory to it to pay all of the increased operating costs and trackage rights set forth in Section 4A(2) of this Agreement.

(3) Provision by Soo of any and all documents to comply with the terms of this Agreement and execution of any and all instruments, documents and consents as necessary, including quit claim deeds, releases executed by any secured parties and in a form acceptable to insurers of title as to any and all security interests, mortgages or other encumbrances on the Property. Within 90 days after the closing, Soo shall cause to be recorded partial releases or satisfactions of any mortgages or deeds of trust of Soo which may appear of record as a lien against the Property, and Soo shall indemnify the Authority, and the Authority's title insurer, for any loss or expense sustained by either of them as a result of Soo's failure...
to have such lien so released or satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo’s title.

(4) Any judgment against Soo which may appear of record as a lien against the Property shall be settled and satisfied by Soo within 30 days after it becomes final and unappealable, and Soo shall indemnify the Authority, and the Authority’s title insurer, for any loss sustained by either of them as a result of Soo’s failure to have such lien so settled and satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo’s title.

(5) Soo shall provide agreements by present tenants of the Property to vacate or terminate trackage rights presently in effect, to take effect no later than such time as the Railroad Easement is terminated.

(6) The Property will be conveyed subject to facts which would be disclosed by a comprehensive survey, rights and claims of parties in possession, rights of the public, and those easements, leases, licenses and permits listed in Exhibit F. The Authority may object to the marketability of Soo’s title on the basis of such matters. Soo is under no obligation to cure title defects. If a title defect is not cured, the Authority at its option may terminate this Agreement at any time prior to closing.
(7) The Property shall be conveyed subject to the rights of CMC Real Estate Corporation or its successors or assigns to the location of certain billboards on the Property shown by arrows on Exhibit G and which shall not afford a basis for objecting to the marketability of Soo’s title.

B. **Environmental Conditions.** The obligations of the Authority and Soo to consummate the transaction contemplated by this Agreement are subject to the fulfillment on or before the closing date of all of the following environmental conditions, any of which may only be waived by the other party in writing:

(1) All of the environmental representations and warranties of the Soo contained in this Agreement shall be true and correct on and as of the closing date.

(2) Soo shall have completed a Phase II environmental investigation of the Property and a supplemental Phase I environmental investigation and shall have shared all final reports and recommendations of such investigations with the Authority within 30 days from the execution of this Agreement.

(3) The Authority shall have performed an environmental investigation of the Property supplemental to the Phase II, the scope of which shall be in the sole discretion of the Authority.
(4) If the highest estimated cost to remediate the Property to federal, state and local environmental regulatory standards for use as a transportation corridor exceeds $2 million, either party may terminate this Agreement by written notice to the other prior to the closing and thereupon neither party shall have any further rights or obligations under this Agreement. The estimate of remediation cost shall be based upon remediation techniques that reasonably accommodate the Authority’s time needs in using the Property as a transportation corridor.

(5) Soo shall have sealed or caused to have been sealed in accordance with the requirements of Minnesota law any existing wells known to Soo and shall have delivered the required Sealed Well Certification to the Minnesota Department of Health except for the two monitoring wells which are the subject of a right of entry in an agreement between the Soo and the Minneapolis Community Development Agency (designated in said agreement as MW304 and MW306), for which a partial assignment shall be made to the Authority.

C. Corporate Authority Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of a certificate or certificates dated as of the closing date and signed
on behalf of Soo by its Secretary or Assistant Secretary to the effect that:

(1) The copy of Soo's restated Certificate of Incorporation or Articles of Incorporation attached to the certificate are true, correct and complete;

(2) No amendment to said Articles or Certificate has occurred since the date of the last amendment annexed;

(3) A true and correct copy of the By-Laws of Soo as in effect on the date thereof and at all times since the adoption of the resolutions referred to in the following paragraph is annexed to such certificate;

(4) The resolutions by the Board of Directors of Soo authorizing the actions taken in connection with the sale of the Property including the execution and delivery of this Agreement and any related agreements, were duly adopted and continue in force and effect (a copy of such resolutions to be annexed to such certificate).

(5) The officers of Soo executing this Agreement and any other related agreements executed and delivered pursuant to or in connection with this Agreement are incumbent officers of Soo and that their signatures as shown on such certificate or certificates are genuine.

(6) Soo is a corporation in good standing in the State of Minnesota.

D. **Municipal Corporate Authority Conditions.** The obligation of Soo to consummate the transaction contemplated by this Agreement
is subject to the provision by the Authority to Soo of a certified copy of the resolution of the Board of the Authority certifying its approval of the transaction pursuant to the authority of Minnesota Statutes § 398A.04.

E. Opinion of Counsel to Soo. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of an opinion of Counsel to Soo, which may be house Counsel, that:

(1) To Soo's knowledge, no proceeding is pending, nor is there a substantial threat of such a proceeding, before any court or governmental agency in which it is sought to restrain or prohibit, or to obtain labor or environmental protection, conditions or provisions or damages or to obtain other relief in connection with, this Agreement or any other agreement to be executed in connection with this Agreement or the consummation of the transactions contemplated hereby or which, if adversely decided, would materially affect or impair either party's right or ability to perform its obligations hereunder or to obtain the benefits hereof, and no investigation that might eventuate in any such suit, action or proceeding is pending or threatened; and

(2) To Soo's knowledge, there are no labor disputes in progress or threatened with respect to Soo or the transaction contemplated by this Agreement.
F. **Opinion of Counsel to Authority.** The obligation of Soo to consummate the transaction contemplated by this Agreement will be subject to delivery by the Authority to Soo of an opinion of counsel as follows:

(1) All actions, proceedings, resolutions, instruments and documents required to carry out this Agreement and all other related legal matters shall have been approved on or before the closing date by the Hennepin County Attorney or the law firm of Felhaber, Larson, Fenlon & Vogt, P.A., counsel to the Authority in the exercise of its or their reasonable judgment, and the Authority or its counsel shall have been furnished with copies, satisfactory in form and substance to counsel to the Authority in the exercise of its or their reasonable judgment, of all of such required material corporate records and related proceedings of Soo authorizing its execution, delivery and performance of this Agreement as the Authority or its counsel shall reasonably require.

G. **Alternate Routing Conditions.** The obligation of the parties to consummate the transaction contemplated by this Agreement is subject to fulfillment on or before the closing date of the following condition, which may only be waived by either party in writing. The Authority agrees to cooperate and assist Soo in obtaining the agreements contemplated by this condition:

Soo shall have obtained agreements satisfactory to Soo with Chicago and North Western Transportation Company, Burlington Northern Railroad, and other railroads affording Soo and Twin Cities and Western Railroad...
Company alternate routing for rail traffic that is currently routed via the 29th Street Corridor.

SECTION 6 - ENVIRONMENTAL INVESTIGATION

The Authority may enter the Property and, to the extent necessary, Soo's land in the vicinity of the Property (jointly referred to as the Site in this Section 6) for the purpose of surveying and conducting the supplemental environmental investigation referred to in Section 5 of this Agreement, including, but not limited to, soil borings, water samplings and other environmental inspections and tests the Authority in its sole discretion deems necessary subject to the following conditions:

1. The Authority shall give Soo advance notice of the date and time of each entry and the nature of the activities to be conducted on the Site at each such date and time.

2. Soo may elect to be present during the conduct of such activities and to monitor same. Such monitoring shall not relieve the Authority of any liability under this Section.

3. Prior to entering the Property, the Authority shall secure the permission of any tenant then in possession of same.

4. Upon the completion of its activities, the Authority shall remove any debris resulting from such activities and shall restore the Site to the condition it was in prior to the commencement of such activities.
Only to the extent permitted by law, including but not limited to Minnesota Statutes Chapter 466, as amended, and only to the extent of the Authority's fault or negligence, the Authority shall indemnify Indemnitees against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, environmental response and remediation costs, and reasonable attorneys' fees (collectively, Claims) arising out of or relating to any loss of (or damage to) any property or business or any injury to (or death of) any persons, where such loss, damage, injury, or death actually or allegedly arises (whether directly or indirectly, wholly or in part) from:

(a) any action or omission of the Authority (or its employees, agents, or contractors) while on the Site pursuant to this Section; or

(b) the exercise by Authority (or its employees, agents, or contractors) of the permission granted by this Section; or

(c) the escape or release of any pollutant, contaminant, or hazardous substance resulting (directly or indirectly, wholly or in part) from any action or omission of Authority (or its
employees, agents, or contractors) while on the Site pursuant to this Section.


(6) The Authority (and its employees, agents, and contractors) shall comply with all applicable laws while on the Site.

(7) The Authority will provide Soo with complete copies of the test data and test reports as soon as they are available to the Authority.

(8) The cost of any test or survey will be borne solely by the Authority.

(9) Unless reasonably necessary to complete the Authority's environmental investigation, test holes shall be located no closer than 10 feet from the nearest rail of any railroad track located on or adjacent to the Site and drilling equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any such track. Before the Authority proceeds with test holes or placement of drilling equipment in such manner
Soo must have given written permission to do so which shall not be unreasonably withheld.

(10) While on the Site, the Authority (and its employees, agents, and contractors) shall comply with Soo’s safety rules, including any requirement regarding the use of flagmen. All costs associated with compliance with such rules shall be borne by the Authority. If Soo shall incur any costs in connection therewith, the Authority shall reimburse Soo within 30 days after receipt of Soo’s invoice.

(11) Unless disclosure is required by court order or applicable law, the Authority shall maintain, and shall cause its employees, agents, and contractors to maintain, the confidentiality of all information pertaining to any environmental test performed on the Site.

(12) If any mechanics’ or materialmen’s lien, or similar lien, is asserted against the Site, the Property, or any other property of Soo or Indemnitees as a result of the exercise of the permission granted in this Section, the Authority shall immediately satisfy and/or obtain the release of such lien, all at the Authority’s expense, and the Authority shall indemnify and defend Soo from and against all claims arising out of or connected with such lien.

(13) Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as
waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Ch. 466. Further, the Authority's obligations set forth in this Section and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 7 - ASSIGNMENTS OF CONTRACTS, LEASES AND RELATED INSTRUMENTS

A. Soo will assign to and the Authority or its designee will accept, all right, title, interest and obligations held by the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, under leases, contracts, permits, licenses and other instruments which, to the extent discovered by Soo after diligent search of its files and records, have been listed and described in Exhibit F, attached hereto and hereby made a part of this Agreement.

B. Soo will also assign all other interests of any nature of the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, including rights in and to general intangibles and contract rights in addition to those identified or described in Exhibit F, including franchises, governmental and contractual operating rights and other contracts, leases, licenses, permits and privileges, except to the extent such rights relate to Soo's rights
and obligations to provide common carrier freight rail service on the Property.

C. Soo reserves to itself all prepaid rentals attributable to any lease, license or easement whereby a third party has been granted the right to install and maintain a fiberoptic transmission line. Payments for rentals due under said instruments after closing shall be prorated between Soo and the Authority based upon their respective ownership of the affected areas. Otherwise, there shall be no proration of lease rentals.

SECTION 8 - PAYMENTS FOR TAXES

A. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority's ownership, leases, air rights development, and/or operations. Soo agrees to pay promptly to taxing authorities when due all Taxes, if any, with respect to its use or operations duly levied, to the extent Soo's property right has been separately assessed by the appropriate assessing authority to Soo while conducting operations over the Railroad Easement. To the extent Soo's property right is not so separately assessed to Soo, but the underlying fee in the Railroad Easement is assessed as railroad operating property and would be exempt except for Soo's use in operations, then Soo agrees to pay all such taxes duly levied while conducting operations over the Railroad Easement. Soo reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith
litigate and settle with the taxing authority any such protested amount.

B. The Authority shall pay without reimbursement from Soo all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 9 - GRANT OF RAILROAD EASEMENT

A. Subject to all of the terms and conditions of this Agreement, the Authority hereby agrees to grant to Soo at closing a Railroad Easement to continue its present railroad operations and to continue to meet its common carrier obligations at Soo's sole cost and obligation subject to the terms of this Agreement, on its solely owned Trackage located upon said Railroad Easement as described in Exhibit C, including the right to:

1. Exclusively provide freight railroad service to any industry, team, or house track existing in the 29th Street Corridor on the date of this Agreement or as otherwise may be required by law.

2. Permit current third party users for bridge rights only or admit a third party only for emergency detour purposes to use all or any portion of said Trackage.

3. Construct or modify tracks connecting to or crossing said Trackage, including track connections with the Chicago and North Western owned trackage located on Authority owned right-of-way West of France Avenue, subject to provisions of this Agreement, and the prior written approval by the Authority, which approval shall not be
unreasonably withheld and shall be deemed given if required by law.

(4) Use the existing roadbed, bridges, and other existing railroad facilities, if any, acquired by the Authority as a result of this Agreement.

(5) Admit a third party operator as assignee of Soo's common carrier freight service obligation subject to the consent of the Authority which shall not be unreasonably withheld.

SECTION 10 - RAILROAD EASEMENT RENTAL

A. Until termination of the Railroad Easement in accordance with Section 12 of this Agreement, Soo will pay an annual rental of $40,000 to the Authority for the Property utilized by the Railroad Easement. The first payment of $40,000 shall be due one month after the closing date and shall thereafter be paid annually by the same date.

(1) In the event of termination of the Railroad Easement upon other than the anniversary of the closing date, remaining rental due shall be prorated accordingly.

(2) The rental amount may be adjusted upward by the Authority each five (5) years, but each upward adjustment shall be no greater than ten percent of the previous rate.

B. At such time as the Railroad Easement is terminated, Soo shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any
kind except as may have arisen prior to such termination or by reason of other provisions of this Agreement.

**SECTION 11 - RAIL CAR STORAGE**

Effective no later than six (6) months after closing, Soo and its tenants shall cease storing or parking railroad cars at any location on the Property except such cars as are actually used to service rail users located on or adjacent to the Property. Any rail cars required to be stored for the use of such rail users shall be parked in the vicinity of the loading or unloading tracks of said users.

**SECTION 12 - TERMINATION OF RAILROAD EASEMENT**

A. As provided in this Section 12, the Railroad Easement and the rental obligation under Section 10 will terminate, and the Railroad Easement Escrow account referred to in Section 4B(2) including accrued interest will be paid to Soo, no later than 90 days (unless winter conditions have prevented removal of Soo Trackage, then 180 days) after the effective date of an abandonment authorization order issued by the Interstate Commerce Commission ("ICC") or an ICC Notice of Exemption, and upon the occurrence of the events in (1) and either (2) or (3) below (unless otherwise provided by this Agreement):

1. (a) Written notice of termination by either party to the other party;

(b) Soo delivers a release of Railroad Easement suitable for recordation;

(c) The Authority accepts relinquishment of the Railroad Easement in writing which shall be given
when Soo satisfies the conditions in either (2) or (3).

(2) Upon notification by Soo in writing to the Authority that Soo intends to remove the Trackage, and Soo completes salvage of the Trackage and removal of rails located in and across public streets and highways and restores paving (or has reimbursed the Authority for the cost of doing the same). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. If Soo has not completed salvage, and removal of rails and restoration of paving in and across public streets and highways, within ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days), the Trackage not salvaged shall be abandoned in place without compensation from the Authority and Soo shall reimburse the Authority for the cost of completing any removal and repaving which may be deducted from the Railroad Easement Escrow payment.

However, the Authority may, at its sole option, declare that the Trackage is to be left in place and pay to Soo within 90 days of the effective date of the abandonment order the market value of the track materials, less the cost of removal and the value of any additions or betterments previously provided at the
expense of the Authority. In such event, Soo shall have no obligation to restore street and highway crossings.

(3) Upon notification by Soo in writing to the Authority that Soo does not intend to remove the Trackage from the Property and Soo completes the removal of rails located in and across public streets and highways and the restoration of paving (or Soo reimburses the Authority for the cost of doing the same) no later than ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. The Trackage not salvaged shall be deemed abandoned in place without compensation from the Authority. If Soo has not completed removal of rails and restoration of paving in and across public streets and highways within ninety days after the effective date of the abandonment authority (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). Soo shall reimburse the Authority for the cost of completing any remaining removal and repaving, which may be deducted from the Railroad Easement Escrow payment.

B. Both Soo and the Authority shall have the right to terminate the Railroad Easement at any time in accordance with the provisions of this Agreement. Any such termination must be
initiated by written notice to the other party of its desire to terminate the Railroad Easement. Notwithstanding any other provisions of this Agreement, the Railroad Easement will terminate no later than 15 years following the date of closing, at which time the provisions of Section 12, paragraph E will apply. At that time, Soo agrees to transfer its railroad freight service common carrier obligation to the Authority or the Authority's designee.

C. If Soo desires to terminate the Railroad Easement, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory approval to terminate common carrier railroad freight service. In such event, Soo shall have no right to any payment for lost freight revenue. The Authority agrees to cooperate in seeking regulatory approval.

D. In the event of cessation of local rail freight traffic for a period of one year or more, or in the event the last user of rail freight service along the Railroad Easement ceases operations or otherwise makes clear that it has no further need for rail service, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory authority to terminate common carrier railroad freight service. Soo agrees to make filing of any such request for abandonment authority within six months after the last user ceases operations or after a year in which no local railroad traffic has originated or terminated on the Railroad Easement. Soo further agrees to use its best efforts to
obtain any necessary regulatory abandonment approval for itself and any other users within one year of said filing.

(1) The Authority agrees to cooperate in any such effort. In the event more than one year elapses before necessary regulatory approval is obtained by Soo, or earlier at Soo’s request, the Authority may, at its option, proceed in the name of the Soo to prosecute and complete any necessary regulatory procedure to obtain authorization for such cessation, including cessation of operations by users.

(2) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority’s designee, if requested by the Authority, in which case Section 12E(2) will apply.

(3) Soo shall not be entitled to any payment for lost freight revenue, except as provided in paragraph (2) above.

(4) Soo shall have no obligation to appeal an adverse regulatory decision, but shall be obligated to refile for abandonment approval no later than one year after any such denial. In any event, Soo shall have no obligation to refile for abandonment approval subsequent to a denial more than twice.
(5) The Authority shall have the right at any time to require Soo to divulge its most recent two years freight traffic and revenues generated on the Railroad Easement.

E. In the event the Authority requests termination of the Railroad Easement, the Authority shall have the obligation to obtain regulatory approval at its expense. Soo agrees to cooperate in any such effort at its expense, including preparation of necessary traffic, accounting and financial data in form suitable for ICC or other regulatory application. Soo also agrees that the Authority may proceed in the name of the Soo to prosecute and complete any such procedure. Soo agrees to provide any requested data for regulatory filing within ninety days of request by the Authority.

(1) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case, Sec. 12E(2) will apply.

(2) In the event the Authority requests termination of the Railroad Easement prior to cessation of active rail freight shipping via the Easement, the Authority will make an additional payment at the time termination takes place for lost net revenue calculated in accordance with the provisions of Exhibit H based on average freight revenues for the most recent two years prior to the
request by the Authority and based upon the assumption that revenue will continue for a maximum term of 20 years from the date of closing and further based on the cost of capital as determined by the Interstate Commerce Commission on the date of the request by the Authority to terminate the freight railroad easement. Revenues used in the projection shall be adjusted to reflect those revenues reasonably expected to continue. No payment for lost revenue will be made under any other circumstances.

F. In the event the Authority shall cause, contribute to, or assist in the relocation of any customer facility located adjacent to the Railroad Easement and currently used for rail shipping, the Authority shall:

1. Give Soo advance notice of the proposed relocation.

2. Keep Soo advised as to the particulars of the proposed relocation.

In the event such facility is relocated with the financial assistance of the Authority on a line of railroad not served by Soo, CP Rail or their affiliates, successors or assigns, the provisions of Section 12E(2) will apply.

SECTION 13 - OBLIGATIONS FOLLOWING TERMINATION

Upon termination of the Railroad Easement, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.
SECTION 14 - RAILROAD EASEMENT MAINTENANCE, OPERATIONS,
CONTROL AND ENTRY

A. Until termination of the Railroad Easement, Soo shall
have the exclusive direction and control of the Trackage upon said
Easement, at its sole cost and expense, subject to the rights of
the Authority as set forth in this Agreement. Soo shall perform
all construction, derailment or wreck clearing, maintenance, repair
and renewal of the Trackage, including any additions thereto it may
deez necessary or desirable for the safe and efficient operation of
all trains. Soo’s obligation for maintenance and repairs shall
include any repairs to overhead bridges necessitated by reason of
interference with freight railroad operations, which repairs are
not required for any other purpose.

B. The management and operation of the Railroad Easement
shall be under the direction and control of Soo. Soo shall have
the power to change its operations, management and operating
practices on or over the Railroad Easement as in its judgment may
be necessary, expedient or proper for the operations herein
intended, consistent with the provisions of this Agreement.

C. Soo shall have the right to operate trains, engines and
cars over the Railroad Easement for its sole benefit, and shall
not, except as otherwise provided in this Agreement without prior
written permission by the Authority, which permission shall not
unreasonably be withheld, permit any third party to operate trains,
engines or cars over the Railroad Easement except as already
provided in existing trackage rights agreements or as a temporary
emergency detour.

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D. Soo shall, at its sole cost and expense, determine all means and employ all persons necessary to operate, maintain, repair and renew the Trackage, as well as crossings, crossing signals, ditches, roadbeds, bridges, and communication lines within the Railroad Easement which may be necessary for its use of the Trackage.

E. Soo shall have a right of access over other portions of the Property for the sole purpose of maintaining and performing freight railroad operations over the Railroad Easement. Such access shall not unreasonably interfere with activities of the Authority or other users permitted by the Authority upon Property not part of the Railroad Easement.

F. The Authority shall not pay the expenses of any public crossing of the Railroad Easement which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Railroad Easement.

G. The Authority may enter upon, and make alterations to, the Railroad Easement subject to the following conditions:

(1) The Authority shall give Soo at least three working days advance notice of the date, time, and location of each entry upon the Railroad Easement and the precise nature
of the activities to be conducted on the Railroad Easement at each such date, time and location.

(2) The Authority and its contractors shall not interfere with the operations of any trains or railroad facilities upon the Railroad Easement except with the consent of Soo which consent shall not be unreasonably withheld.

(3) The Authority shall take (and shall cause its contractors to take) such actions as are required to afford Soo the benefit of any applicable insurance held by the Authority or its contractors. In any case where the circumstances would cause a prudent railroad to require the Authority or its contractors to do so, the Authority or its contractors shall procure and maintain in effect railroad protective liability insurance (occurrence form), in Soo's name and issued by an insurer and in a form acceptable to Soo, with limits of $2,000,000 per occurrence and $6,000,000 aggregate for bodily injury (including death) and property damage.

(4) While on the Railroad Easement, the Authority and its contractors shall comply with all applicable laws and with Soo's safety rules, all at no expense to Soo.

(5) No work shall be done or obstruction placed over any track or within the Railroad Easement until the Authority or its contractors shall have arranged for Soo to furnish, at the Authority's or its contractors' expense, such flagging as Soo deems necessary for the protection
of railroad operations. Such flagging shall not relieve the Authority or its contractors from any liability.

(6) Construction equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any track.

(7) If the Authority desires to construct facilities upon the Railroad Easement, such construction shall be effected in strict accordance with plans which have been approved in advance by Soo. The Authority shall submit the plans to Soo no less than forty-five (45) days prior to the commencement of construction. Soo may require the Authority to make changes in the plans if, in Soo's judgment, the planned construction would create a safety hazard with respect to, or interfere with, railroad operations. Soo assumes no responsibility for, and shall not under any circumstances be held liable for, any error, omission, defect, or deficiency in the plans.

(8) The Authority shall not construct any facility over any track where the vertical distance between the top of the rail and any part of the facility is less than 23 feet.

SECTION 15 - LIABILITY

A. While conducting operations over the Railroad Easement, Soo agrees to defend, indemnify, and hold harmless the Authority, its Commissioners, officers, agents, and employees from any liability, claims, damages, costs, judgments, or expenses resulting directly or indirectly from the act or omission of Soo, its agents,
employees, customers, tenants, or invitees, occurring on or from the Property (including, without limitation, reasonable attorney's fees and compensation for harm resulting from the handling, storage or release of toxic or hazardous substances or wastes, pollutants or contaminants including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products).

B. Notwithstanding anything in this Agreement to the contrary, in case of collision occurring on the Property involving railroad cars, locomotives, rail passenger cars, motor vehicles, other vehicles or equipment operated by the respective parties which causes Loss or Damage involving the Sole Property or Sole Employees of each of the parties hereto, the party whose Sole Employees are alone at fault shall be solely responsible for and shall settle for and pay the entire Loss and Damage caused thereby, or, if caused by the fault of the Sole Employees of both parties hereto, each party hereto shall bear and pay for all Loss or Damage which its Sole Employees and Sole Property may have suffered as a result thereof, and each party shall bear the percentage of Loss or Damage for which it is legally responsible to third parties.

C. Each party hereto shall pay all Loss or Damage for which such party shall be liable under the provisions of this Agreement, and shall defend, indemnify and save harmless the other party against such Loss or Damage, including any such damages in any court action. Each party hereto shall have the right to settle, or
cause to be settled for it, all claims for Loss or Damage for which such party shall be liable under the provisions of this Agreement, and to defend or cause to be defended all suits for the recovery of any such Loss or Damage.

D. Each party shall give the other prompt written notice of any and all claims or suits arising from operations on or about the Railroad Easement.

E. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Stat. Ch. 466. Further, the Authority's obligations set forth in this Section 15 and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 16 - ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

A. Soo hereby represents and warrants as follows to the Authority, such representations and warranties to be true and correct on the closing date, that:

(1) Soo has provided to the Authority within 30 days of the execution of this Agreement all relevant and material environmental information with respect to the Property which is in Soo's possession. Soo may provide such information in summary fashion, but warrants that any summary so provided is fully representative of the environmental conditions of the Property known to Soo and
that Soo has promptly provided all other relevant documents, data, test results, reports and recommendations requested by the Authority as it pertains to said summarized information. The summarized information will be set forth in Soo's Environmental Disclosure schedule which shall be identified as Exhibit I to this Agreement.

(2) Except as disclosed in any documentation provided by Soo to the Authority pursuant to this Section 16 hereof and except as disclosed on Exhibit I (which is to be provided to the Authority within 30 days after the date of this Agreement), Soo has not generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9647, as amended) on the Property, nor has Soo undertaken any activity on the Property which has caused, or, to Soo's knowledge, would contribute to:
(i) the Property being or becoming a treatment, storage
or disposal facility within the meaning of the
Resource Conservation and Recovery Act of 1976
("RCRA"), 42 U.S.C. Section 6901 et seq., or any
similar state law or local ordinance,

(ii) a release or threatened release of toxic or
hazardous wastes or substances, pollutants or
contaminants from the Property within the meaning
of CERCLA or any similar state law or local
ordinance,

(iii) the discharge from the Property of pollutants or
effluent into any water source or system, the
dredging or filling of any waters or the discharge
into the air of any emissions, that would require a
permit under the Federal Water Pollution Control
Act, 33 U.S.C. Section 1251 et seq., or the Clean
Air Act, 42 U.S.C. Section 7401 et seq., or any
similar law or local ordinance.

(3) Except as disclosed in Exhibit I, to Soo's knowledge,
there is no existing claim or cause of action and there
is no pending claim or cause of action against the
Property under RCRA, CERCLA or any federal, state or
local environmental statutes, regulations, ordinances or
other environmental regulatory requirements, including
without limitation, the Minnesota Environmental Response
and Liability Act, Minn. Stat. § 115B ("MERLA") and the
Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C.

(4) Except as disclosed on Exhibit I, no above ground or underground tanks (i) have been located on the Property by Soo, or (ii) have been located on the Property by Soo and subsequently removed or filled. There are no known wells within the meaning of Minn. Stat. § 103I.005 on the Property except as described on Exhibit I.

SECTION 17 - ENVIRONMENTAL INDEMNIFICATION

A. Except as limited by this Section 17, Soo shall defend, indemnify and hold the Authority harmless from and against all claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature whatsoever to the extent that they (i) result from or arise out of Soo's breach of any of the representations and warranties in Section 16 of this Agreement, or (ii) result from or arise as a result of the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property to the extent that same occurred prior to transfer of ownership of the Property to the Authority.
B. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is restricted to that where the response, removal, remediation or disposal is ordered or required by any federal, state or local government agency with jurisdiction over the same; however, response, removal, remediation or disposal shall be based upon techniques that reasonably accommodate the time needs of the Authority in using the Property as a transportation corridor.

C. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is further limited to that necessary for the Authority's use of the Property as a transportation corridor, including, but not limited to, use as a railroad right-of-way, roadway, bike, pedestrian or other trailway and necessary facilities, including without limitation, station sites, maintenance facilities and other buildings incidental to use as a transportation corridor.

D. The Authority is responsible for the first $50,000 attributable to each Environmental Site up to an aggregate total of $250,000 for all Environmental Sites.

E. Soo is obligated to defend, indemnify and hold the Authority harmless for amounts over $50,000 attributable to each Environmental Site and for amounts in excess of the Authority's aggregate amount of $250,000.
F. Notwithstanding anything else to the contrary in this Section 17, Soo's obligation to defend and indemnify the Authority with respect to Environmental Sites shall be limited to an aggregate amount of $2,000,000.00 for any and all Environmental Sites.

G. Soo is not responsible for defending or indemnifying the Authority for Environmental Sites discovered after termination, pursuant to Section 12, of the Railroad Easement.

H. Each Party agrees to inform the other of notices and investigations of Environmental Sites and the Parties further agree to confer with respect to management of remediation.

I. All the terms, covenants, and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, executors and assigns.

SECTION 18 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party in this Agreement, all of which are relied upon by the each party shall survive and be enforceable after the closing date and any subsequent transfer of title of the Property.

SECTION 19 - LAWS GOVERNING

This Agreement shall be governed, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree
to comply with or abide by all laws relevant to this Agreement governing their respective operations in the State of Minnesota.

SECTION 20 - LABOR RELATIONS

Soo and the Authority each shall be responsible for conducting their own labor relations with any labor organization either representing or seeking representation among either's employees, and each shall regulate or seek to adjust all disputes that may arise with respect to their employees without involving the other party. Either party may freely enter into any contract with any labor organization representing or seeking representation among its own employees. Neither party shall obligate the other party to its employees or to any union representing its employees. Each party shall give written notice to the other of any labor dispute that prevents or threatens to prevent timely performance under this Agreement, including all relevant information concerning the dispute that may impact upon this Agreement.

SECTION 21 - INDEPENDENCE OF PARTIES

Soo and the Authority hereby declare that they are acting independently, and agree that in the performance of this Agreement their actions are as independent contractors and not as an employee of the other; nor are any of their respective employees considered at any time an employee of the other. Soo has and hereby retains full control of its business in the performance of this Agreement and full control of all the employment, compensation and discharge of all employees of Soo assisting in its performance hereunder.
Soo and the Authority each shall be fully responsible for all matters relating to payment of their employees, including compliance with Social Security, Railroad Retirement, withholding taxes and all other laws and regulations governing such matters. Soo and the Authority each shall be responsible for their own acts and those of their agents, officers, employees, lessees, and contractors during the term of this Agreement.

SECTION 22 - REMEDIES FOR BREACH. If the Authority fails to perform any of the terms or conditions of this Agreement within the specified time limits, Soo may declare this Agreement terminated or may have this Agreement specifically enforced. Likewise, if Soo fails to perform any of the terms or conditions of this Agreement within the specified time limits, the Authority may declare this Agreement terminated or may have this Agreement specifically enforced. The rights and remedies granted to the parties in this Section 22 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity, or otherwise); accordingly, the exercise by either party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 23 - ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties with respect to the sale and purchase of the Property. Neither party has relied on any statements or representations by the other party except as are set forth in this Agreement.
SECTION 24 - ASSIGNMENT: BINDING EFFECT. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including without limitation any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 25 - NOTICES. Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. If delivered at the closing, a notice shall be deemed given when hand-delivered to the party's representative at the closing. The business addresses of the parties are as follows:

800

mailing address: P. O. Box 530
Minneapolis, Minnesota 55440
Attn: Director - Real Estate

delivery address: 1380 Soo Line Building
105 South 5th Street
Minneapolis, Minnesota 55402
Attn: Director - Real Estate

telecopier: (612) 347-8170
Attn: Director - Real Estate

THE AUTHORITY

mailing address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Director - Light Rail Transit
delivery address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Principal Right-of-way Agent

telecopier: (612) 348-9710
Attn: Principal Right-of-way Agent

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed. Either party may change its business address, for notice purposes, by giving notice of the change to the other party.

ATTEST:

[Signature]
Assistant Secretary

SOO LINE RAILROAD COMPANY

By [Signature]
Its Senior Vice President
Development

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By [Signature]
Its Chairman

and

By [Signature]
Its Executive Director
Approved as to execution:

[Signature]
Assistant County Attorney

Dated: 1-5-93

Approved as to legality:

[Signature]
Assistant County Attorney

Dated: 12-23-92
RAILROAD EASEMENT ESCROW AGREEMENT

This Agreement is made by and among Hennepin County Regional Railroad Authority (Buyer), Norwest Bank Minnesota, National Association (Escrow Agent), and Soo Line Railroad Company (Seller) on the 30th day of July, 1993.

WHEREAS, Buyer has entered into a Purchase Agreement (the Purchase Agreement) dated December 23, 1992 with Seller for the purchase of certain real estate identified as the 29th Street Corridor.

WHEREAS, a copy of the Purchase Agreement is attached hereto as Exhibit A.

WHEREAS, pursuant to Section 9 of the Purchase Agreement, Buyer will grant to Seller a Railroad Easement; and, pursuant to Section 4.B. (2) of the Purchase Agreement, $750,000 of the purchase price for the 29th Street Corridor is to be held in a Railroad Easement Escrow and paid to Seller upon termination of the Railroad Easement.

WHEREAS, Buyer and Seller desire to engage the services of the Escrow Agent to hold and invest that portion of the purchase price and disburse it upon written authorization of Buyer.

WHEREAS, the Escrow Agent is willing to act as the escrow agent on the terms and conditions set forth below.

NOW THEREFORE,

1. Buyer shall deposit the sum of $750,000 (which amount, together with the interest and other earnings thereafter earned in connection therewith, is referred to as the Escrow Funds) with the Escrow Agent, who shall receive and hold the Escrow Funds in accordance with the terms of this Agreement.

2. Upon receipt of the Escrow Funds, Escrow Agent shall immediately invest the Escrow Funds in such interest bearing accounts, certificates of deposit, direct obligations of the United States Government, or mutual funds (collectively, Accounts) as shall have been designated in a written notice from Seller’s Chief Financial Officer. Thereafter, Escrow Agent shall invest the Escrow Funds in such Account or Accounts as may be designated from time to time in written notices from Seller’s Chief Financial Officer. If no such written notice has been given at the time the Escrow Funds are received, Escrow Agent shall immediately deposit the Escrow Funds in an interest bearing account of Escrow Agent’s choosing and shall thereupon request in writing that Seller’s Chief Financial Officer give notice of the Accounts into which the Escrow Funds are to be invested. Upon receipt of such notice, Escrow Agent shall invest the Escrow Funds in the Accounts so designated. (All references in this Agreement to Seller’s Chief Financial Officer include any successor to the current Chief Financial Officer and any person holding a comparable position with Seller’s successor or assign.)
3. All income (i.e., interest, capital gains, dividends, and other earnings) from the Accounts shall be reinvested in the Accounts and shall be considered part of the Escrow Funds.

4. All income earned on the Accounts shall be reported in the name of Seller for tax purposes.

5. Escrow Agent shall receive fees for its services pursuant to the Escrow Fee Schedule attached hereto as Schedule "A." Escrow Agent will deduct said fees from income earned on the Accounts.

6. Escrow Agent shall furnish to Seller a monthly statement of account reflecting an inventory of assets in the Accounts, all activity during the previous month, and a market value for the assets of the Accounts. Escrow Agent will also furnish such other reports as the Seller or Buyer may reasonably request, including reports to the Seller’s or Buyer’s accountants or other examiners as may be necessary or appropriate.

7. This Agreement may only be amended by written agreement of the parties.

8. Escrow Agent shall hold the Escrow Funds until it receives written authorization from Buyer (or its successor or assign) to disburse the entire balance of the Escrow Funds (less Escrow Agent’s fees) to Seller (or its successor or assign), which consent shall be given upon termination of the Railroad Easement in accordance to Section 12 of the Purchase Agreement. Written authorization from Buyer may be given by the Executive Director of Buyer. Written authorization from Buyer’s successor or assign may be given by any officer of such successor or assign.

9. Disbursement of the balance of the Escrow Funds to the Seller shall be made as directed by Seller’s Chief Financial Officer.

10. This Agreement shall be effective on the date of deposit of the Escrow Funds with Escrow Agent pursuant to paragraph 1 of this Agreement and shall terminate upon the full performance by each of the parties of their respective obligations hereunder.

11. Except as otherwise provided in this Agreement, the sole duty of Escrow Agent shall be to receive the Escrow Funds and hold them subject to release, in accordance herewith, and Escrow Agent shall be under no duty to determine if Buyer or Seller are complying with the requirements for termination of the Railroad Easement. Escrow Agent may conclusively rely upon, and shall be protected in acting upon, any statement, certificate, notice, request, consent, order, or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Escrow Agent shall have no duty or liability to verify any such statement, certificate, notice, request, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in this Agreement. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with this Agreement unless first indemnified to its satisfaction.
Escrow Agent may consult counsel in respect of any question arising under this Agreement, and Escrow Agent shall not be liable for any action taken or omitted in good faith upon advice of such counsel.

12. Buyer and Seller hereby agree to indemnify and hold Escrow Agent harmless from and against any and all claims, liabilities, and expenses (including attorneys' fees) which Escrow Agent may incur by reason of its acting as the escrow agent under this Agreement. Notwithstanding the foregoing, it is specifically understood and agreed that in the event Escrow Agent has committed negligence or malfeasance in the exercise of its responsibilities hereunder, the indemnification provisions of this Agreement shall not apply. Further, nothing in this Agreement shall be deemed to waive any of Buyer's statutory defenses and immunities or limitations on liability.

13. The books, records, documents, accounting procedures, and practices of Escrow Agent relevant to this Agreement are subject to examination by Buyer and Seller or their agents.

14. This Agreement and all transactions hereunder shall be governed by, and interpreted, construed, and enforced in accordance with, the laws of the State of Minnesota.

15. All notices, authorizations, and directives required or contemplated by this Agreement shall be in writing and shall be effective when actually received by the party to whom addressed. Such notices and authorizations shall be addressed as follows. A party may change its address for notice purposes by giving notice of the change to the other parties.

Notices to Buyer shall be directed as follows:

Don Lawrence  
Hennepin County Regional Railroad Authority  
Southwest Street Level  
Hennepin County Government Center  
Minneapolis, MN 55487  
Fax (612) 348-9710

Notices to Seller shall be directed as follows:

James A. Lee  
Senior Vice President and Chief Financial Officer  
Soo Line Railroad Company  
925 Soo Line Building  
105 South Fifth Street  
Minneapolis, MN 55402  
Fax (612) 337-0434
with a copy to:

Director of Real Estate Development
Soo Line Railroad Company
1380 Soo Line Building
105 South Fifth Street
Minneapolis, MN 55402
Fax (612) 347-8170

Notices to Escrow Agent shall be directed as follows:

Attn: Alice I. Weibye
Norwest Bank Minnesota, N.A.
Corporate Custody Services
Sixth Street & Marquette Avenue
Minneapolis, MN 55479-0065
Fax (612) 607-2822

16. This Agreement contains the entire understanding among the parties hereto with respect to the escrow contemplated hereby and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to such escrow.

17. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

18. Escrow Agent may resign upon 30 days advance written notice to Buyer and Seller. If Seller and Buyer are unable to agree upon a successor Escrow Agent within the 30-day period following such notice, Escrow Agent may petition any court of competent jurisdiction to name a successor escrow agent. Escrow Agent will continue to serve as the escrow agent under this Agreement until such time as the successor escrow agent is able to assume its duties under this Agreement.

19. Seller acknowledges and agrees that the terms of this Agreement meet the requirements contained in Section 4.B.(2) of the Purchase Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: [Signature]

Its Chairman
NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION

By Alice Hargreaves
Its Asst Vice President

Soo Line Railroad Company

By Raymond J. Dwyer
Its R. V. P. CO

******************************************************************************

APPROVED AS TO FORM AND LEGALITY:

          Asst. Hennepin County Attorney
Dated          7-29-93

APPROVED AS TO EXECUTION:

          Asst. Hennepin County Attorney
Dated          7-30-93

JAMES R. UFER
Asst. Hennepin County Investment
and Financial Manager
Dated July 29, 1993
SUPPLEMENT NO. 1 TO PURCHASE AGREEMENT

This is Supplement No. 1 dated May 27, 1993, to that certain Purchase Agreement dated December 23, 1992 (the Purchase Agreement), by and between Soo Line Railroad Company (Soo) and the Hennepin County Regional Railroad Authority (the Authority).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Soo and the Authority hereby agree as follows:

Section 3 C of the Purchase Agreement is amended by changing June 1, 1993, to July 1, 1993.

SOO LINE RAILROAD COMPANY
By /s/ Donald A. Ogden
Its Sr. V.P & C.A.
APPROVED AS TO FORM

Law Department
Glenn Olander - Quamme

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
By /s/ Linda Helley
Its Chair
and
By /s/ W. Elmer Anderson
Its Executive Director

***************************************************************************************************

Approved as to execution:

Assistant County Attorney
Dated: May 27, 1993

Approved as to legality:

Assistant County Attorney
Dated: May 27, 1993
SUPPLEMENT NO. 2 TO PURCHASE AGREEMENT

This is Supplement No. 2 dated June 25, 1993, to that certain Purchase Agreement dated December 23, 1992 (the Purchase Agreement), by and between Soo Line Railroad Company (Soo) and the Hennepin County Regional Railroad Authority (the Authority).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Soo and the Authority hereby agree as follows:

Section 3 C of the Purchase Agreement is amended by changing June 1, 1993, to August 1, 1993.

This Supplement No. 2 supersedes Supplement No. 1 to Purchase Agreement (which Supplement No. 1 is dated May 27, 1993).

SOO LINE RAILROAD COMPANY
By
Its Sr. Vice President

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
By
Its Chair
and
By
Its Executive Director

Approved as to execution:

Assistant County Attorney
Dated: June 25, 1993

Approved as to legality:

Assistant County Attorney
Dated: June 25, 1993
RELINQUISHEMENT AGREEMENT

THIS IS AN AGREEMENT dated July 27, 1993, between Soo Line Railroad Company (Soo) and Twin Cities & Western Railroad Company (TCW).

The premises of this agreement are as follow:

a. Soo and TCW are parties to that certain Twin Cities Trackage Rights Agreement dated July 26, 1991 (the Base Agreement), whereby Soo granted TCW trackage rights with respect to certain railroad trackage owned by Soo in the Minneapolis-St. Paul metropolitan area, including the "Merriam Park Line" (as that term is defined in the Base Agreement) which is shown in red coloration on the attached Exhibit A.

b. The Base Agreement permits TCW to traverse the Merriam Park Line to reach Soo's St. Paul Yard but prohibits TCW from serving any rail freight customers located on and along the Merriam Park Line.

c. The Merriam Park Line includes a line of railroad that extends from the westerly city limit of the City of Minneapolis to the easterly line of Hiawatha Avenue, all in the City of Minneapolis, referred to as the 29th Street Corridor.

d. Section 8.2 of the Base Agreement stipulates that TCW agrees to relinquish all its rights over the Merriam Park Line in the event of a sale or abandonment of any portion of the Merriam Park Line, provided that Soo shall secure an alternate route to St. Paul Yard for TCW.
e. By Purchase Agreement dated December 23, 1992 (the Purchase Agreement), between Soo and the Hennepin County Regional Railroad Authority (the Authority), Soo agreed to sell the 29th Street Corridor to the Authority. The Purchase Agreement contemplates that Soo and TCW may continue to use the 29th Street Corridor for a period of time after the consummation of the sale.

f. Pursuant to Section 5 A (4) of the Purchase Agreement, the obligation of the Authority to consummate the purchase of the 29th Street Corridor is subject to the condition that Soo provide agreements by present users of trackage rights to vacate or terminate those trackage rights in a timely manner.

g. The Purchase Agreement contemplates that the existing Merriam Park Line track crossings at Hiawatha Avenue will be permanently severed in order to accommodate the reconstruction of Hiawatha Avenue. The exact date of severance is not known at this time. Once the track crossings at Hiawatha Avenue are severed, TCW will no longer be able to utilize the Merriam Park Line to reach Soo's St. Paul Yard.

h. Soo has procured alternate trackage rights for TCW that give TCW an alternate route to Soo's St. Paul Yard using the tracks of other railroads, all as specified in the Base Agreement. TCW has accepted such alternate trackage rights.

i. TCW is willing to surrender its trackage rights with respect to a portion of the Merriam Park Line as shown in yellow coloration on Exhibit A on the terms set forth below.
NOW, THEREFORE, in consideration of the foregoing premises, and in further consideration of the promises and undertakings set forth below, Soo and TCW agree as follows:

1. TCW hereby surrenders its trackage rights (as granted by the Base Agreement) with respect to that portion of the Merriam Park Line lying between the westerly limits of the City of Minneapolis (milepost 428.00) and Merriam Park (milepost 416.43), all as shown in yellow coloration on the attached Exhibit A.

Said surrender shall take effect at the earlier of the following:

(a) upon receipt of written demand from Soo demanding such surrender, or

(b) at such time as the railroad crossings at Hiawatha Avenue are severed;

provided, however, that if, upon the happening of either of the events specified in subparagraphs (a) or (b) above, TCW has not yet received authority or exemption from the Interstate Commerce Commission ("ICC") to discontinue its trackage rights, then said surrender shall not take effect as specified above, but, instead, shall take effect upon receipt by TCW of such authority or exemption; provided further that said surrender shall not take effect until TCW has received ICC approval or exemption therefrom, for the alternate trackage rights described in paragraph h above.

2. TCW will cooperate in good faith with Soo to obtain any regulatory approval (or exemption in lieu thereof) necessary to effectuate the purposes of this agreement.
3. This agreement is expressly intended for the benefit of the Authority.

4. TCW shall remain obligated, pursuant to Section 8 of the Base Agreement, to relinquish its trackage rights with respect to that portion of the Merriam Park Line located west of milepost 428.00 in the event such portion (or any part thereof) is abandoned or sold to a third party.

SOO LINE RAILROAD COMPANY

By  

P. A. Pender
Vice President and
Chief Operating Officer

TWIN CITIES & WESTERN RAILROAD COMPANY

By  

[Signature]
Chairman
RAILROAD EASEMENT

(reserved for valuation and tax data)  (reserved for recording data)

STATE DEED TAX DUE HEREON:  $________

Date:  July 30, 1993

FOR $1.00 AND OTHER VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in that certain Purchase Agreement (the Purchase Agreement) between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated December 23, 1992. The real property is described as follows: see attached Exhibit A.

Hennepin County Regional Railroad Authority

By  ____________________________

Sandra M. Hilary

Its Chair

By  ____________________________

James M. Bouley

Its Executive Director
STATE OF MINNESOTA) 
COUNTY OF HENNEPIN) 

The foregoing was acknowledged before me this 30th day of July, 1993, 
by Sandra M. Hilary and James M. Bourey, respectively the Chair and 
Executive Director of Hennepin County Regional Railroad Authority, a 
political subdivision and local government unit under the laws of 
Minnesota, on behalf of the Authority.

[Signature]
Notary Public

DONALD A. LAWRENCE
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My commission expires 2-28-94

This instrument was drafted by:
Soo Line Railroad Company
P.O. Box 530
Minneapolis, MN 55440

Tax statements for the real 
property described in this 
instrument should be sent 
to:

Hennepin County Regional 
Railroad Authority
Southwest Street Level 
Government Center
300 South Sixth Street
Minneapolis, MN 55487-0016
Temporary Easement No. 1:

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over Parcel A (described below).

Except for that portion of Parcel A described as Temporary Easement No. 2, below, and unless terminated earlier pursuant to Section 12 of the Purchase Agreement, Temporary Easement No. 1 shall terminate at the earlier of the following: 15 years after the date of this Easement or at such time as all of Grantee’s railroad crossings of Hiawatha Avenue between 26th Street East and Lake Street are permanently severed.

Temporary Easement No. 2:

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over that portion of Parcel A lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis.

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over that portion of Parcel A lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis.

Temporary Easement No. 2 shall terminate 15 years after the date of this Easement, unless earlier terminated pursuant to Section 12 of the Purchase Agreement.

Parcel A:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and
Exhibit A (p. 2 of 2)

the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

(Note: since the legal description has been completely re-typed, it should be checked with great care by all concerned.)
ASSIGNMENT AND ASSUMPTION AGREEMENT

1. As used in this agreement, "Purchase Agreement" means that certain Purchase Agreement dated December 23, 1992, between Hennepin County Regional Railroad Authority (the Authority) and Soo Line Railroad Company (Soo), together with any modifications, amendments, and supplements thereto.

2. Terms defined in the Purchase Agreement are used with the same meanings in this agreement.

3. In accordance with and subject to the terms of Section 7 of the Purchase Agreement, Soo hereby assigns to the Authority Soo's rights, and the Authority hereby assumes Soo's obligations, under the following documents (the "Documents"):

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<thead>
<tr>
<th>Party</th>
<th>Identifying Number</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roland Millwork Co.</td>
<td>24055</td>
<td>Land lease</td>
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<tr>
<td>Bituminous Roadways, Inc.</td>
<td>24126</td>
<td>Land lease</td>
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<tr>
<td>Sears, Roebuck &amp; Co.</td>
<td>24191</td>
<td>Land lease</td>
</tr>
<tr>
<td>Donald K. Raymond</td>
<td>24400</td>
<td>Land lease</td>
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<td>Bituminous Roadways, Inc.</td>
<td>24767</td>
<td>Land lease</td>
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<td>Northern States Power</td>
<td>25034</td>
<td>Wire crossing</td>
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<tr>
<td>KBL Cablesystems of Minnesota</td>
<td>25391</td>
<td>Wire crossing</td>
</tr>
<tr>
<td>KBL Cablesystems of Minnesota</td>
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<td>Wire crossing</td>
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<td>Northern States Power</td>
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<td>Pole &amp; wire agreement</td>
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<td>Northern States Power</td>
<td>25445</td>
<td>Overhead wire crossing</td>
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<td>Pole line attachment</td>
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<td>Pole &amp; wire agreement</td>
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<td>U. S. West Communications</td>
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<td>KBL Cablesystems of Minnesota</td>
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<td>KBL Cablesystems of Minnesota</td>
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<td>Wire crossing</td>
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<td>NCI</td>
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<td>Fiber optic agreement</td>
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<td>Gas pipe line agreement</td>
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<td>Paragon Cable TV</td>
<td>28202</td>
<td>Land lease</td>
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<td>U. S. West Communications</td>
<td>28285</td>
<td>Land lease and shed</td>
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<td>Smith Foundry Company</td>
<td>28487</td>
<td>Land lease</td>
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<td>L. H. Sowles Company</td>
<td>28625</td>
<td>Gas pipe agreement</td>
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<td>N. C. Bennett Lumber Company</td>
<td>M7226</td>
<td>Bridge agreement</td>
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<td>Minneapolis Gas Light Co.</td>
<td>V68</td>
<td>Bridge agreement</td>
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<tr>
<td>City of Minneapolis</td>
<td>V74</td>
<td>Land sale agreement</td>
</tr>
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<td>City of Minneapolis</td>
<td>V210</td>
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</table>
4. The foregoing assignment and assumption is limited to those rights and obligations under the Documents that pertain to the Property.

5. Notwithstanding paragraph 3, above, Soo reserves to itself 100% of the prepaid gross revenue attributable to the following Document: Identifying Number 26093.

6. Soo also assigns to the Authority all other interests of any nature of the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property transferred to the Authority pursuant to the Purchase Agreement, including rights in and to general intangibles and contract rights in addition to those identified in paragraph 3, above, including franchises, governmental and contractual operating rights and other contracts, leases, licenses, permits and privileges, except to the extent such rights relate to Soo's rights and obligations to provide common carrier freight rail service on the Property. The Authority hereby assumes Soo's obligations and duties with respect to the various interests identified in this paragraph 6, provided that such assumption shall be limited to obligations and duties relating to the Property.

7. This agreement is dated July 30, 1993.

SOO LINE RAILROAD COMPANY

By ____________________________
Its VP & CEO

HINNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By ____________________________
Its Chair

APPROVED AS TO FORM

Law Department
Glenn Clenden - Guinn

Approved as to Form and Legal

7-29-93

approved for execution

Jim Mahaffy
EXHIBIT B

Legal Description of Property

All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)
RAILROAD EASEMENT

(reserved for valuation and tax data)  (reserved for recording data)

STATE DEED TAX DUE HEREON: $__________

Date: __________________________, 19____

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Purchase Agreement between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated ______________________. The real property is described as follows:

(Legal description on reverse of this document)

Hennepin County Regional Railroad Authority

By

Its Chairman

By

Its Executive Director

STATE OF MINNESOTA  )

COUNTY OF HENNEPIN  )

The foregoing was acknowledged before me this ________ day of _________, 199____, by Vern T. Genzlinger, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

Notary Public

This Instrument was drafted by:

Hennepin County Regional Railroad Authority
Southwest Street Level Government Center
300 South Sixth Street
Minneapolis, MN  55487-0016

Tax Statements for the real property described in this instrument should be sent to:
Description of Property Affected

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

Description of Railroad Easement to Expire (Insert Date of Severance at Hiawatha)

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over the above described property.
Description of Railroad Easement to Expire December 31, 2008

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over the above described property lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over the above described property lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis
EXHIBIT D 1 of 3
QUITCLAIM DEED

(reserved for valuation and tax data) (reserved for recording data)

Date: ______________________, 199__

For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local governmental unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

That part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

That part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.
EXHIBIT D 2 of 3

(Abstract Property)

also:

That part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying south of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

[Seller certifies that Seller does not know of any wells on the real property.] (insert as necessary)

SOO LINE RAILROAD COMPANY

By: ____________________________

Its: ____________________________

STATE OF MINNESOTA

COUNTY OF HENNEPIN

) SS

The foregoing quitclaim deed was acknowledged before me this ___ day of ________ 199__ by ___ of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

Notary Public
Tax statements for the property should be sent to Grantee at:


This instrument was drafted by:
John P. Nail
Soo Line Railroad Company
P. O. Box 530
Minneapolis, MN 55440
EXHIBIT E

QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority the following property:

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY

By: ____________________________

Its: ____________________________

Date: ____________________________
DEED NO. 83571
Registered Title Property Authorization No. 7164

THE GRANTOR, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, whose principal office is located at 165 N. Canal Street, Chicago, Illinois 60606, for the consideration of TEN AND NO/100 ($10.00) DOLLARS, the provisions hereinafter set forth, and other good and valuable consideration, conveys and quitclaims to HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota, 2400-A Government Center, Minneapolis, Minnesota 55447, GRANTEE, all interest in the following described real estate situated in the County of Hennepin, and the State of Minnesota, to wit:

That part of Lot 12 lying Southerly of a line drawn from a point on the Westerly line of said lot, distant 75 feet along said West line from the Northwest corner of said lot, to a point in the East line of said lot, 50 feet Southerly at right angles to the Northerly line of said lot;

ALSO:

That part of Lot 13 lying Southerly of a line drawn from a point in the East line of said lot, which is 75 feet Southerly at right angles to the Northerly line of said lot, to a point in the East line of Lot 16, distant 190 feet North from the Southeast corner of said Lot 16, except the West 56 feet, front and rear thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

EXCEPT

That part thereof lying Southeasterly of a line drawn in a Northeasterly and Southwesterly direction from a point in the East line of said Lot 12, 96.2 feet South of the Northeast corner thereof, through a point in the East line of said Lot 13, 106.3 feet South of the Northeast corner thereof, and said line continued Southwesterly in a straight line to the West line of said Lot 13. The above part of Lot 13 is subject to a reservation by the State of Minnesota to mineral and mineral rights.

Subject to covenants, easements, conditions, and restrictions of record.

TOGETHER with and including all of Grantor's right, title and interest in "as is" condition as of the date of this deed, in and to all buildings, bridges and roadbed, if any, situated upon said real estate.

DATED this 1st day of May, 1984.

Signed, Sealed and Delivered in Presence of:

[Signature]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By: Robert M. Mickey, Vice President

Attest: J. S. Edwards, Assistant Secretary
STATE OF ILLINOIS)  
COUNTY OF COOK)  

I, Richard S. Kennerley, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY that Robert W. Mickey and J. S. Edwards, to me personally known and known to me to be, respectively, Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, and the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, respectively, Vice President and Assistant Secretary of said corporation; that as such officers they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument for the uses and purposes therein set forth.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public, at Chicago, Illinois, this 1st of May, 1984.

Notary Public, in and for the County of Cook, in the State of Illinois
Richard S. Kennerley

My Commission Expires: November 8, 1984

This instrument was prepared by Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, Illinois 60606.

L/19-1R/T(11/28)
This is to certify, that the Minneapolis & St. Louis Railway Company, a Minnesota corporation having its principal place of business at 111 East Franklin Avenue in the City of Minneapolis, County of Hennepin, and State of Minnesota

In the county of Hennepin, to wit: in the township of...
M. SELL. 4676-E.

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**Certificate of Title.**

**Volume 690, Page 20828**

**District Court No. 8000**

The Minneapolis & St. Louis Railway Company

**IMPORTANT**

In dealing with the land described in this certificate, the names of the parties and description of property should be exactly the same as written herein.

**ATTENTION**

DELAY and EXPENSE will be caused by the loss of this certificate.
THE GRANTOR, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, whose principal office is located at 165 W. Canal Street, Chicago, Illinois 60606, for the consideration of TEN AND NO/100 ($10.00) DOLLARS, the provisions hereinafter set forth, and other good and valuable consideration, conveys and quitclaims to HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota, 2400-A Government Center, Minneapolis, Minnesota 55401, GRANTEE, all interest in the following described real estate situated in the County of Hennepin, and the State of Minnesota, to wit:

That part of Lot 12 lying Southerly of a line drawn from a point on the Western line of said lot, distant 75 feet along said West line from the Northwest corner of said lot, to a point in the East line of said lot, 50 feet Southerly at right angles to the Northerly line of said lot;

ALSO:

That part of Lot 13 lying Southerly of a line drawn from a point in the East line of said lot, which is 75 feet Southerly at right angles to the Northerly line of said lot, to a point in the East line of Lot 16, distant 190 feet North from the Southeast corner of said Lot 16, except the West 56 feet, front and rear thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

EXCEPT

That part thereof lying Southeasterly of a line drawn in a Northeasterly and Southwesterly direction from a point in the East line of said Lot 12, 96.2 feet South of the Northeast corner thereof, through a point in the East line of said Lot 13, 106.3 feet South of the Northeast corner thereof, and said line continued Southwesterly in a straight line to the West line of said Lot 13. The above part of Lot 13 is subject to a reservation by the State of Minnesota to mineral and mineral rights.

Subject to covenants, easements, conditions, and restrictions of record.

TOGETHER with and including all of Grantor's right, title and interest in "as is" condition as of the date of this deed, in and to all buildings, bridges and roadbed, if any, situated upon said real estate.

DATED this 1st day of May, 1984.

Signed, Sealed and Delivered in Presence of:

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By: Robert W. Mickey, Vice President

Attest: J. S. Edwards, Assistant Secretary
STATE OF ILLINOIS) 
COUNTY OF COOK

I, Richard S. Kenneley, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY that Robert H. Mickey and J. S. Edwards, to me personally known and known to me to be, respectively, Vice President and Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, and the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, respectively, Vice President and Assistant Secretary of said corporation; that as such officers they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public, at Chicago, Illinois, this 1st of May, 1984.

Richard S. Kenneley
Notary Public, in and for the County of Cook, in the State of Illinois

My Commission Expires: November 8, 1984

This instrument was prepared by Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, Illinois 60606.

L/19/1R/T(11/28)
STATE: MINNESOTA
COUNTY: HENNEPIN

REGISTRATION

This is to certify that the Minneapolis & St. Louis Railway Company, a Minnesota corporation having its principal place of business at 111 East Franklin Avenue in the City of Minneapolis, County of Hennepin and State of Minnesota

is the owner of the following described land, situated in the County of Hennepin and State of Minnesota:

That part of Lot 12 lying southerly of a line drawn from a point on the westerly line of said lot, distant 75 feet along said west line from the southeast corner of said lot, to a point in the east line of said lot, 75 feet southerly at right angles to the northerly line of said lot; and

that part of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to the northerly line of said lot, to a point in the west line of Lot 13, distant 100 feet north from the southeast corner of said lot, 10, except the West Fifty-six (56) feet, front and rear, thereof;

all in Block 6, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

Except that part thereof lying southerly of a line drawn from a point in the east line of said lot 12, 75 feet south of the southeast corner thereof, through a point in the east line of said lot 13, 100 feet south of the northeast corner thereof, and said line extended southerly in a straight line to the west line of said lot 13.

The above part of Lot 13 is subject to a reservation by the State of Minnesota of mineral and minor rights. Also subject to and together with an easement for driveway purposes over the east eight feet of the West Thirty (30) feet of that part of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to the northerly line of said lot, to a point in the west line of Lot 13, distant 100 feet north from the southeast corner of said lot, 10, as shown in deed No. 81014, Files of Register of Titles.

Subject to the incumbrances, liens and interests set forth in the memorandum attached or entered herein, and subject to the following rights or incumbrances: as provided in the twenty-second section of Act concerning the registration of lands and the title thereto of the General laws of the State of Minnesota for the year 1883, and the amendments thereto, namely:

1. Easements, rights of way under the laws of the constitution of the United States, which the statutes of this state cannot prevent in offices of record,

2. Any easements, agreements or deeds, or for which a sale of the land has not been made at the date of the certificate of title,

3. Easements for public roads,

4. Easements for public highways, including the right of the landowner to construct such highways and to be granted the use of the right of the landowner to construct such highways and to be granted the use of the right.

3. Easements for public roads,

4. Easements for public highways, including the right of the landowner to construct such highways and to be granted the use of the right of the landowner to construct such highways and to be granted the use of the right.

5. Rights of ingress and egress to said land. All of which rights are reserved and are subject to the application as is allowed by law.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this Fourteenth day of November 19__.

Registrar of Titles

MEMORIAL

OF ESTATES, EASEMENTS OR CHARGES ON THE LAND DESCRIBED IN THE CERTIFICATE OF TITLE HERETO ATTACHED.

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**Certificate of Title**

**City**

**IMPORTANT**

In dealing with the land described in this certificate, the names of the parties and description of property should be exactly the same as written here.

**Attention**

DELAY and EXPENSE will be caused by the loss of this certificate.

**Lemmon County**

**Minnesota**
Midtown Greenway
Phase II
PERMIT AGREEMENT
29th St. Greenway – Phase II Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, hereinafter referred to as the "HCRRA"), a Minnesota political subdivision, and the City of Minneapolis, a Minnesota political subdivision (hereinafter referred to as the "City").

WHEREAS, HCRRA has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor ("Corridor") for the purpose of implementing Light Rail Transit ("LRT") and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business developments known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis, Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway".

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Premises

HCRRA hereby agrees to grant certain rights and benefits to the City hereinafter described with regard to that certain real property described as follows:

That part of HCRRA’s right of way, located in the City of Minneapolis, between 5th Ave. So. and Hiawatha Ave., the northerly limits being the northerly HCRRA property line and the southerly limits being the southerly construction limits shown on the construction plans for the 29th St. Midtown Greenway – Phase II, attached hereto as, Exhibit "A"

The said real estate shall be hereinafter described as the "Premises."

2. Uses

The Premises shall be for the temporary use of the City, its agents, officers, employees, sub-permittees and invitees for trail purposes, including but not limited to pedestrian use, in-line skating, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. The City shall be granted temporary use of adjacent lands controlled by HCRRA as reasonably required for maintenance of the Premises.

1
3. Term

The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of HCRRA until termination in accordance with Paragraph 4.

4. Termination

Either party may, at any time and for any reason, terminate this Permit by giving one-hundred eighty (180) days' written notice of its intention to do so. Such notice may be served upon HCRRA by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center, Minneapolis, Minnesota, 55447, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the City of Minneapolis Department of Public Works by delivering a copy thereof to its Director of Public Works. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

5. Temporary Nature of Use

The City acknowledges that the Premises was acquired by HCRRA specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is HCRRA's intention to allow the City to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by HCRRA of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, HCRRA has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination

On the expiration of one-hundred eighty (180) days after such service of said notice of termination, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party prior to termination. The City shall, without further notice or demand, deliver possession of the Premises to HCRRA at the expiration of said one-hundred eighty (180) days and shall, before the expiration of said one-hundred eighty (180) days, remove all buildings and property placed upon the Premises which it has the right to remove. If it shall fail to remove the buildings and property, its right to remove them, at the option of HCRRA, shall cease and the City's interest to the buildings and property shall be forfeited and the same shall belong to HCRRA. If HCRRA elects, it may, at any time after the expiration of said period of one-hundred eighty (180) days, tear down and/or remove any or all such buildings and property without any liability for damages in any respect whatsoever at the expense of the City. The City shall thereupon promptly reimburse HCRRA for all expenses incurred by it in doing so.
7. **Rent**

   Upon any termination of this Permit, rent shall be paid by the City to the date of termination at the rate of $1.00 per year.

8. **Sub-Permits**

   The City may grant permits to sub-permittees upon written approval by HCRAA. The City shall submit a copy of the permit to HCRAA for approval. Any sub-permit shall be on the same terms and conditions and limited to the same uses as are contained in this Permit.

   HCRAA consents to, and the City will grant to the County of Hennepin and other third parties a temporary construction and access easement for purposes of constructing improvements necessary for the City’s use of the Premises and for construction related environmental clean up in a form substantially as contained in Exhibit ‘B’ hereto. HCRAA’s consent does not relieve the City of any of the obligations it has undertaken pursuant to this Permit Agreement, including, but not limited to, the City’s obligation to defend, indemnify and hold HCRAA harmless contained in Paragraph 12. Upon the City granting such easement, the County of Hennepin and the other third parties shall be considered the City’s sub-permittees for purposes of Paragraph 12.

9. **Signage**

   The City shall provide, install and maintain signage, including kiosks, on the Premises identifying the Premises as a temporary trail corridor of the City, by permission of the owner, HCRAA, until the Premises are used for light rail transit or other transportation uses. Any such signage shall also identify the improvement as part of Hennepin Community Works.

10. **Nuisance, Waste**

    The City shall not permit the existence of any nuisance on the Premises. The City, at all times, shall keep the Premises clean and shall comply with all laws, ordinances and regulations respecting the City’s business and use and occupation of the Premises. The City, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on the Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on the Premises; provided, however, that the City may post on appropriate structures, informational materials relating to the permitted uses. The City shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

11. **Utilities, Title, Existing Rights of Others**

    The City accepts the Premises subject to the rights of any person, firm or
corporation, including HCRRA in and to any existing telephone, telegraph and/or other wires, poles and facilities, above and underground, of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of the City's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, the City shall bear and pay the cost of so doing. Notwithstanding the foregoing as to the Communication Systems placed on the 25th Street Corridor pursuant to Easement Agreement dated November 17, 1998 between Williams Communication, Inc. and HCRRA, and Easement Agreement dated August 22, 2000 by and between Enron Broadband Services, Inc. and HCRRA, City may ask that HCRRA provide the Communication Company with ninety (90) days notice of the need for a required change or alteration to the Communication System due to the operations or planned operations of the City related to the Midtown Greenway pursuant to Par.14.1 of the respective Easement Agreements. HCRRA shall under no circumstances be responsible for the costs of relocation of the Communication System nor shall it be responsible for any failure of the Communications Company to comply with the provisions of Par.14.

The City also accepts the Premises subject to any want or failure at any time of HCRRA's title to the Premises or any part thereof and the City shall assume any damages sustained by the City in connection therewith. The City also accepts such Premises subject to rights of any party, including HCRRA, in and to any roadways, easements, leases and permits, whether granted, at HCRRA's sole discretion, either prior to or after the date of this Permit Agreement. The City agrees to provide to HCRRA or other tenants of HCRRA access over and through the Premises on these roadways and easements should such access be deemed necessary by HCRRA. The City accepts said Premises subject to the right of HCRRA, its employees, agents, the City, lessees, and contractors when reasonably necessary to walk upon said Premises to repair adjacent property and the right of HCRRA, its employees, agents, the City, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon HCRRA's property.

12. Indemnification

The City shall defend, indemnify and hold harmless HCRRA, its Commissioners, officers, agents, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of the City, its contractors, subcontractors, officers, agents, employees, customers, invitees, sub-permittees, permittees, lessees or other occupiers of the Premises.

Notwithstanding the foregoing, the City is not responsible to defend, indemnify and hold HCRRA harmless for the acts or omission of "other occupiers" who are present on the Premises pursuant to an easement, lease or permit granted to them by HCRRA.

HCRRA shall not be liable to the City or those claiming by, through, or under the City for any injury, death or property damage occurring in, on or about the Premises based upon the design, construction, operation or maintenance of the Premises by the City or any other entity, nor for the loss or damage by reason of the present or future condition of repair
of the Premises, or for the loss or damage arising from the acts or omissions of the City, its contractors, subcontractors, officers, agents, employees, customers, invitees, sub-permittees, permittees, lessees, or other occupiers of the Premises, including those “other occupiers” present on the Premises pursuant to an easement, lease or other permit granted to them by HCRRA.

13. Insurance

The City further agrees that if in any case the release and indemnity provided in this section shall not be valid, HCRRA shall have the full benefit of any insurance effected by the City upon the property injured, destroyed or damaged and/or against the hazard involved; and the City agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against HCRRA in connection therewith.

14. Covenant

The City, in consideration of the rights granted herein, covenants and agrees to pay the rent promptly, and to fully abide by and perform all and singular the conditions, covenants and agreements to be observed and performed by the City and to yield up the Premises unto HCRRA at the expiration or termination of the Permit Agreement in as good condition as when entered upon.

15. Quiet Enjoyment

HCRRA has the right and authority to enter into this Agreement and if the City pays the rent required hereby and otherwise performs the terms hereof to be performed by the City, the City shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding the foregoing, City acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 11.

16. Waiver

No receipt of money by HCRRA from the City after any default by the City or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of the City shall be implied from omission by HCRRA to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

17. Breach

It is further agreed between the parties hereto, that if the City shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or
default shall continue for fifteen (15) days after the City's receipt of written notice thereof from HCRRA, then it shall be lawful for HCRRA, then or at any time thereafter, to declare this Permit ended, and to re-enter the Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 4; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of HCRRA thereafter to avail itself of same and any subsequent breach thereof. In the event HCRRA has to take action for repossession of the Premises, the City, its assigns or heirs shall be liable for reasonable attorney's fees incurred by HCRRA.

18. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, lessees, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be sub-permitted, used or occupied by any party other than the City unless specifically stated herein. HCRRA reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the City or person occupying the Premises during the term of this Permit or any renewal thereof.

19. Improvements, Maintenance

The City shall be responsible for the construction of all improvements necessary to its use of the Premises whether constructed by itself or others, and shall be responsible for the construction of all bridges and crossings including, without limitation, under or over passes, required pursuant to Paragraph 24 deemed necessary for the City to provide travel on the Premises or to otherwise use the Premises. Plans, if any, shall be submitted to HCRRA for prior review and comment. HCRRA reserves the right to reject any plans for construction proposed by The City on the grounds, in HCRRA's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises. The City shall be responsible for maintenance of the Premises at its own expense. Maintenance includes, but is not limited to, maintaining the trail during the winter months, including snow and ice removal, mowing vegetation in areas abutting trails, fences and retaining walls and maintaining vegetation at 6 inches or less, except for those areas identified by HCRRA, from time to time in writing, as Midtown Greenway Landscaping and Planting Sites which shall be maintained in a manner consistent with the character of the landscaping and plantings.

20. Environmental Concerns

The City shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. The City shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by the City, sub-permitees or invitees during the
City's period of use, including conditions introduced by the City, sub-permittees, or invitees which affect other lands. The City expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. The City agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until HCRRA discovers any such health or environmental impairment, and a remedial action plan necessary for development of the Premises to its highest and best use has been identified and approved by the appropriate local, state and federal regulatory agencies. The City hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

HCRRA shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. HCRRA may enter the Premises during regular business hours of the City without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of the City or without if HCRRA reasonably believes that an emergency exists on the Premises. HCRRA shall conduct any such inspections or testing so as to minimize interference with the City's operations. HCRRA's entry on to the Premises pursuant to this paragraph shall not relieve the City's obligation to pay rent under this Permit.

The City may make any inspections, tests, audits or reviews of the physical condition of the Premises, all at the City's sole cost and expense. Such inspections and tests may include, without limitation, soil tests, soil borings, surveys, environmental audits, and other tests of the Premises ("Environmental Inspection"). If the City elects to abandon its trail project and terminate this agreement due to its Environmental Inspection, the City shall restore the property to its prior condition, and provide HCRRA with copies of all reports and test result. The City agrees to indemnify, defend, and hold HCRRA harmless from any and all actual out-of-pocket expenses incurred by HCRRA related to containing or disposing of any contaminated materials released by such inspections.

In addition to the foregoing provisions of this Paragraph 20, and in exchange for the rights and privileges granted in this Permit Agreement the City hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations regarding any hazardous waste, pollutants, contaminant or petroleum-related material (collectively "contamination") on the Premises necessary for the City's use of the Premises for trail and park purposes regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. However, should the City elect in its sole discretion to abandon its trail project and terminate this agreement, due to its Environmental Inspection, the City shall be not be obliged to bear expenses enumerated in this sentence. Further, the City agreed to defend, indemnify and hold harmless HCRRA, its Commissioners, officers, agents and employees from any liability, claims, causes of action, judgements, damages, losses, costs or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. The City expressly agrees that the
obligations it hereby assumes related to construction and operation of the park trail, shall survive the cancellation of this Permit.

For the below listed sites only, and only where such costs are not covered by third parties, HCRRA agrees to be responsible for contamination cleanup costs necessary for implementing Construction Plans dated August 1, 2002 for the 29th Street Midtown Greenway-Phase II Project in that said costs are also necessary for implementing future rail transit on the Corridor:

a) the Sears Tunnel asbestos clean up Project identified as Minnesota Pollution Control Agency VIC Project No. VP16060;

b) that portion of the Minnesota Department of Agriculture CMC Lite Yard Site located within the boundaries of the Permitted Premises on HCRRA’s right of way generally known as the south wye.

21. Compliance with Laws, Ordinances and Rule

The City agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. The City agrees to comply with rules as may be promulgated from time to time by HCRRA. The City may enforce its ordinances on the Premises, as it applies to third parties.

22. Condition of Premises Inspection

The City accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by HCRRA as to the physical condition or fitness or suitability for any particular purpose, express or implied. The City is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

23. Liens and Encumbrances

The City shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by the City, its agents, employees, customers, invitees, sub-permitees, or other occupiers of the Premises pursuant to this Permit.

24. Relocation

In the event HCRRA determines, at its sole discretion, that relocation of the City’s trail and any trail related facilities including, but not limited to, bridges and crossings added by the City or added on behalf of the City for trail purposes, is required to accommodate HCRRA’s use of the Corridor for transportation purposes, the City shall be required at its expense, and at
no cost to HCRRRA to relocate, remove or alter all or any part of the City’s trail improvements necessary to accommodate such use.

IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of ________ 20__

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: [Signature]
Chair, of Its Board
Date: 3/14/03

And: [Signature]
Deputy/Executive Director
Date: 3/14/03

Attest: [Signature]
Deputy/Clerk of Authority Board
Date: 3/14/03

CITY OF MINNEAPOLIS

By: [Signature]
Mayor
Date:

Attest: [Signature]
Assistant City Clerk
Date: 3/14/03

And: [Signature]
Director of Public Works
Date: 3/4/03

And: [Signature]
Assistant/City Finance Officer
Date:

Approved as to form and execution:
[Signature]
Assistant County Attorney
Date: 3/4/03

Approved as to form:
[Signature]
Attorney for City of Minneapolis
Date: 3/4/03
AGREEMENT FOR COST PARTICIPATION FOR MIDTOWN GREENWAY TRAIL
PHASE 2 & 3

STATE PROJECT NOS. 141-090-09, 141-090-13, 141-090-20, and 27-090-02

THIS AGREEMENT, made and entered into this ___ day of ______________, 20__ by and among the County of Hennepin, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the City of Minneapolis, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

WINESSETH:

WHEREAS, the City and County are preparing to improve the 29th Midtown Street Railroad Corridor for use as a bike trail between 5th Avenue South and Hiawatha Avenue South (Phase 2) and Hiawatha Avenue South and the Mississippi River (Phase 3) under State Project Nos. 141-090-09, 141-090-13, 141-090-20, and 27-090-02, which improvements contemplate construction of a trail, ramp access, retaining walls, signing, lighting, and security systems along the corridor to be described in each phase's project memorandum, hereinafter referred to as the "Project" and,

WHEREAS, the County and the City agree that the Project improvements contemplated herein should be developed jointly by the County and City as defined in the attached Memorandum of Agreement, hereinafter referred to as the "MOU", whose interests include the HCRRA, Hennepin County, and City property and the immediate vicinity; and

WHEREAS, in order to properly serve the City and County as it relates to public affairs and acceptance of the Project by neighborhoods and business, the City and County will maximize community involvement and support for the Project; and

WHEREAS, the County will take the lead in project management for the Project but may not possess the expertise to design and/or engineer the improvements contemplated and therefore will enter into agreements with consultants to perform the necessary work within the desired timeframe; and

WHEREAS, the above described project lies within the corporate limits of the City; and

WHEREAS, the City and County have applied for and received commitments for Federal funding for a portion of the Project construction costs and the State of Minnesota Department of Transportation, herein after referred to as the "State", is the fiscal agent of those Federal funds; and the County and City have expressed their willingness to fund costs incurred by the Project under the aforesaid MOU; and

WHEREAS, it is contemplated that said work be carried out by the parties hereto under the provisions of Minnesota Statutes Section 162.17, Subdivision 1, and Section 471.59.
It is further understood and agreed by the parties hereto that the Federal share of the Federal TE Safety S.P. 141-090-20 and Federal STP Trail S.P.141-090-09 and S.P. 141-090-13 are for Project construction improvements only and that the Federal High Priority S.P. 27-090-02 funds may be used for any Project cost.

It is further understood that the local matching funds shall be provided by the City and County. The MOU states that the County and City will participate financially in 50 percent of all Phase II Project costs that are not covered by Federal funds and that exceed the costs defined in the MOU.

If construction costs exceed the budgeted and programmed funds defined in the MOU, all parties will negotiate a cost sharing arrangement that will be defined in supplemental agreement(s) to the construction bidding contract(s).

The Project total revenues and costs are expected to be Seven Million, Six Hundred Eighty-Five Thousand, Six Hundred Seventy-eight and 00/100 Dollars ($7,685,678.00). The sharing of these estimated costs is defined below and in the MOU.

The City, by executing this Agreement, hereby agrees to fund its share of the costs incurred by Project as defined in the MOU. The City's share of the Project costs is estimated at Seven Hundred Thousand and 00/100 Dollars ($700,000.00).

The County, by executing this Agreement, hereby agrees to fund its share of the costs incurred by Project as defined in the MOU. The County's share of the Project costs is estimated at Two Million, One Hundred Forty Thousand and 00/100 Dollars ($2,140,000.00).

The State, as the Federal funding fiscal agent, hereby agrees to transfer the federal funds as defined above. The Federal funds are estimated at Four Million, Seven Hundred Fifty Thousand, Six Hundred Seventy-Eight and 00/100 Dollars ($4,750,678.00).

The City agrees to continue its actions to obtain the necessary NRP neighborhood funds in the amount of Ninety-Five Thousand and 00/100 Dollars ($95,000.00) as defined in the MOU.

All parties understand and agree that during the duration of the Project there may be reason for any party to request amendment to aforesaid agreements that may result in additional costs in excess of the maximum amounts set forth above. All parties further understand that such needs may subsequently result in an amendment to this Agreement for additional funding for the Project. Project construction changes will be addressed through the State's Supplemental Agreement process with the execution and signatures by the individuals designated in Section 15 below.

It is understood by the parties that the County will accept the lead role for the Project (Phase 2 and Phase 3 as defined herein). All correspondence between any of the parties related to this Project shall be carbon copied to all the parties.

November 5, 2002
It is understood by the parties hereto that the County has budgeted for the years 2001 and 2002, One Million, Seven Hundred Eighty-Four Thousand Dollars and 60/100 Dollars ($1,784,000.00) for its share of the costs to be incurred by the Project under the above-cited agreements. It is further understood and agreed by the parties hereto that the County will provide documentation of County paid expenses to the City and State for the 2001 and 2002 calendar years with supporting documentation of such expenses.

The remaining funds designated by the County and committed to the Project will be paid by the County as the work is completed in the subsequent years of the contract. Similar documentation as provided for year 2002 shall be provided to the City and State for subsequent years as described above.

It is anticipated that all work and services required under the terms of the above-cited agreements with consultants and/or contractors will be completed by December 31, 2004.

Unless terminated pursuant to the immediately following paragraph, this Agreement shall be in full force and effect from the date of execution to December 31, 2005 or until the services provided pursuant to this Agreement have been completed, whichever occurs earlier.

All parties may terminate this Agreement with or without cause upon sixty (60) days written notice to the other parties that said Agreement shall cease and terminate at the end of said sixty-day period. Expenses incurred up to the date of termination shall be shared in the same proportions and be subject to the same conditions as those expenses prior to termination.

The County's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

The City's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

The County and the City shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances in force or hereafter enacted in the completion of the work and services herein agreed to.
City Agreement No. 
County Agreement No. 
Midtown Greenway Trail Phase 2 & 3

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It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

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 hereto.

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The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

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The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this contract and the legal relations between the herein parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the herein parties will be in the appropriate federal court within the State of Minnesota. If any provision of this contract is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

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To the extent that there are any inconsistencies between the MOU and this agreement, the terms of contained in this agreement shall govern.

ATTACHMENTS:

- Memorandum of Understanding, City of Minneapolis and Hennepin County, dated November 5, 2002

(This space left intentionally blank)
29th STREET MIDTOWN GREENWAY
MEMORANDUM OF UNDERSTANDING

Principal Responsibilities

Phase II Trail

Hennepin County

1. Be the responsible party for managing overall Phase II design and construction.
2. Execute agreement with consultant for the design of Phase II.
3. Prepare the Section 106 report necessary for the project.
4. Arrange for consultants to design security system.
5. Arrange for consultant and/or artists to design artistic elements into the project per the Midtown Community Works Partnership efforts.
6. Establish, with City approval, the design standards for Phase II.
7. Confer and gain approval with City staff on major aspects of the Project.
8. Provide full, unmatched funding for the Phase II design, if City is unable to participate, subject to overall funding requirement listed next.
9. Participate financially in 50 percent of all Phase II Project costs, including overruns, not covered by Federal or other funds, exclusive of County's own funding.
10. Select and contract with consultant to provide in-construction services for Phase II. County and City forces will have the right of first refusal to perform these services.
11. Arrange for, or otherwise be responsible for, the entire railroad abandonment process (Phase II).
12. Arrange for, or otherwise be responsible for removal of remaining grain in the CEPRO elevator of the Raif Maltling Company.
13. Demolish and remove the CEPRO elevator, if the county decides to have the facility removed. At a minimum, the metal loading and unloading shed may need to be removed to accommodate the trail.
14. Pay severance and relocation costs, if any, resulting from removal of the CP's railroad tracks and/or the CEPRO elevator.
15. Afford City opportunity to review and approve the construction in progress and respond to City initiated comments.
16. Designate a Project Manager responsible for the overall Project.
17. Coordinate and manage the public participation process.
City of Minneapolis

1. Initiate and make arrangements with Minnesota Department of Transportation (Mn/DOT) to preserve the availability of federal funds obtained by the City for use on the project.
2. Provide timely review and approval of Phase III design standards.
3. Operate and maintain the Phase III Trail, at no cost to the County, or HCRRA.
4. Participate financially in 50 percent of all Project costs, including overruns, not covered by Federal or other funds, exclusive of City’s own funding. In no event shall the City’s participation exceed that of Hennepin County or Hennepin County Regional Railroad Authority combined.
5. Real estate and right-of-way related costs for Phase III are included in Project costs.
6. Designate a staff person who will be responsible for all City activities including, but not limited to, design reviews, funding approvals, etc.
7. Provide, free of charge, any available mapping information required by the County for preliminary or final design.
8. Administer and coordinate the safety and security elements for the Project. Assist the County and consultant in the design of the security system.
9. Exclusive of right of way to be acquired by the County from CP Rail, the City shall pursue and secure all additional right of way required for Phase III Trail.

Design of Grade-Separated Bridge Crossing over Hiawatha Avenue

Hennepin County

1. Be the responsible party for managing the design efforts.
2. Hire consultant to study alignment options, perform preliminary design and provide initial cost estimates.
3. Coordinate and manage the public participation process.
4. Establish, with City approval, the design standards.
5. Confer and gain approval with City staff on major aspects of the Project.
6. Apply for TEA-21 funds for this project. Local match of TEA-21 application will be determined at a later date.
7. Designate a Project Manager.

City of Minneapolis

1. Provide timely review and approval of alignment and design standards.
2. Designate a staff person who will be responsible for all City activities including, but not limited to, all permits design reviews, funding approvals, etc.
3. Provide, free of charge, any available mapping information required by the County for preliminary or final design.
Schedule Responsibilities

Phase II Trail

♦ Final Design – Fall 2001 and Spring 2002
♦ SHPO review – Fall 2001 and Spring 2002
♦ Copro Grain Elevator – grain removed in 2001, prepare reuse plan for the Copro facility by Fall 2001
♦ CP Rail Roadway – abandonment and required track removal by Spring 2002
♦ Construction – Begin Spring 2003/Summer 2003

Phase III Trail

♦ Preliminary Design – Summer 2002
♦ Negotiate with CP Rail – Summer/Fall 2002
♦ Final Design – Fall 2002/Winter 2003
♦ Construction – Begin Fall 2003/Spring 2004

Design of Grade-Separated Bridge Crossing over Hiawatha Avenue

♦ Study alignment options, perform preliminary design and provide initial cost estimates – Summer 2001
♦ Submit TEA-21 Application – Summer 2001
Hopkins to Chaska Trail
Three Rivers Park District
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1382 (612) 348-9260
FAX: (612) 348-9710

PERMIT

File No. 73-330018
Permit No. 24-06

Name of Applicant Three Rivers Park District, Permittee, (Address) 3000 Xenium Lane, Plymouth, Minnesota 55441, for installation, use, relocation and maintenance of: A regional trail signage program consisting of directional standards (direction signs), individual trail orientation kiosk, system-wide orientation kiosks, and related appurtenances, more or less as shown on Exhibit A (Permitted Facility), at Permittee's sole cost, over, on or under Hennepin County Regional Railroad Authority (HCRRRA) property (the "Permitted Property") described as:

That part of the below described property:

1) Hennepin County Regional Railroad Authority's - Hopkins to Victoria right-of-way, said right-of-way being described on HCRRRA Property Map No. 1 (C.R. Doc. No. 5404251), and HCRRRA Property Map No. 12 (C.R. Doc. No. 5518520);

2) Hennepin County Regional Railroad Authority's - Hopkins to Chaska right-of-way, said right-of-way being described on HCRRRA Property Maps No. 13 through 30 (C.R. Doc. No. 's 189393, 189394, 189395, 189396, 6525334, 6525335, 6525336, 6525337, 6525338, 6525339, 6540289, 6540290, 6540291, 6540292, 6540293, 6540294, 6540295, 6540296);

3) Hennepin County Regional Railroad Authority's - Hopkins to Minneapolis right-of-way, said right-of-way being described on HCRRRA Property Maps No. 's 2 through 6 (C.R. Doc. No. 's 5496762, 5496763, 6503256, 5503257, 5504276), and HCRRRA Property Map No. 40 (C.R. Doc. No. 8350163), and HCRRRA Property Maps No. 31 (C.R. Doc. No. 6760097),

which generally conforms to the center portion of the corridor and more or less as shown on Exhibit A.

Exhibit A is attached and incorporated by reference in this Permit.

GENERAL REQUIREMENTS

1. Permittee shall not make changes in the use of this Permit without the permission of HCRRRA.

BOARD OF COMMISSIONERS

Peter McNulty
Chair
Vice Chair
Mark Steplein
Secretary
Glenn Dukeman
Treasurer
Dave Opat
Randy Johnson
Penny Steele
2. Permittee acknowledges and understands that HCRRA at its sole discretion may modify or remove any sign of Permitted Facility placed on the Permitted Property due to future implementation of Light Rail Transit or other transportation improvements, or for any other reason.

3. Permittee is responsible to abide by all local, state or federal ordinances or regulations in the exercise of the rights herein given.

4. Permittee must protect all existing utilities, including fiber optics, waterways and drainage lines.

5. Permittee is responsible for correcting any failures due to settlement, erosion, lack of vegetation growth, rutting, or other problems related to the use of this Permit, at the expense of the Permittee.

6. Permittee shall restore all disturbed areas to original or better condition.

7. Permittee shall not use, employ, store, dispose of, or otherwise release any hazardous substance or pollutants or contaminants on HCRRA property.

8. The cost of this Permit shall be **One and 00/100 Dollars ($1.00)**.

SPECIAL PROVISIONS

1. Permittee is aware that underground fiber optic communication cables, in addition to other underground utilities, may have been installed on the Permitted Property, it is the Permittee's sole responsibility, at the Permittee's sole expense, to properly locate and protect these and all utilities.

2. At all times during its occupancy of the Permitted Property, Permittee shall be responsible for 100 percent of the expense of maintaining the Permitted Property.

3. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-32001 dated September 1, 1998, as amended with First Amendment to Permit Agreement No. 73-32001, dated October 3, 2000, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority “Hopkins to Minneapolis Rail Corridor” located in Hennepin County, Minnesota; notwithstanding the above and below, other than generally conforming to the center of said Hopkins to Minneapolis Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-32001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-32001, especially those pertaining to Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.
4. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-33001, dated July 14, 1992, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority “Hopkins to Chaska Rail Corridor”, located in Hennepin and Carver Counties, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Chaska Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-33001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-33001, especially those pertaining to Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.

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6. Permittee agrees to include the Hennepin County logo on the Trail Kiosks with the following accompanying language:

This trail corridor was acquired by the Hennepin County Regional Railroad Authority for future light rail transit use. A cooperative agreement with Three Rivers Park District allows the corridor to be used for interim recreational purposes.
(I, We), the undersigned, herewith accept the terms and conditions of the regulations as laid down by HCRRA and agree to fully comply therewith to the satisfaction of the HCRRA.

Permittee

Amelie Stenzel
Three Rivers Park District
Date 8/30/06

HCRRA

Aline Loftus
Director, Housing, Transit and Community Works
Date 6/12/06
<table>
<thead>
<tr>
<th>Site</th>
<th>System Kft</th>
<th>Trail Kft</th>
<th>Direction Kft</th>
<th>GPS</th>
<th>UTM</th>
<th>Location</th>
<th>Description</th>
<th>Site Category</th>
<th>Special Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>-</td>
<td>-</td>
<td>29</td>
<td>1ST046197</td>
<td>4977922</td>
<td>Minnontka Hills Rd</td>
<td>South side of road, Directional on south side of trail 20 feet before exiting rules and regulations sign.</td>
<td>Flat</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>7</td>
<td>16</td>
<td>30</td>
<td>1ST047099</td>
<td>4974790</td>
<td>DT Hopkins old kiosk site</td>
<td>North side of trail at old kiosk location. All in a row with system kiosk furthest east, then trail kiosk, then directional sign.</td>
<td>Flat</td>
<td>Staff to demolish old kiosk, move rules and stop ahead signs, clean up trail in this area to make worthy of a trailhead status.</td>
</tr>
<tr>
<td>31</td>
<td>-</td>
<td>-</td>
<td>31</td>
<td>1ST0466020</td>
<td>4977301</td>
<td>26th St</td>
<td>15 feet east of sidewalk, south side of trail.</td>
<td>Flat</td>
<td>verify ROW</td>
</tr>
<tr>
<td>32</td>
<td>-</td>
<td>-</td>
<td>32</td>
<td>1ST0468769</td>
<td>4977820</td>
<td>Virginia Ave</td>
<td>Just west of Virginia Ave. Trail splits north to parking lot. Put post 20 feet east of V split on north edge of trail.</td>
<td>Flat</td>
<td>Need SLP permission</td>
</tr>
<tr>
<td>33</td>
<td>8</td>
<td>17</td>
<td>33</td>
<td>1ST0471201</td>
<td>4975334</td>
<td>Dakota Park by new Rec Center</td>
<td>75 feet west of telephone pole that is directly north of new rec center. System kiosk, then trail kiosk, then directional sign in a row moving west.</td>
<td>Flat</td>
<td>Site requested by SLP Parks</td>
</tr>
</tbody>
</table>

Note: There is no Trail Kiosk # 7
Minneapolis to Hopkins Trail
Three Rivers Park District
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
FAX: (612) 348-9710

PERMIT

File No. 73-33001B
Permit No. 24-06

Name of Applicant: Three Rivers Park District, Permittee, (Address) 3000 Xenium Lane, Plymouth, Minnesota 55441, for installation, use, relocation and maintenance of: A regional trail signage program consisting of directional standards (direction signs), individual trail orientation kiosks, system-wide orientation kiosks, and related appurtenances, more or less as shown on Exhibit A (Permitted Facility), at Permittee's sole cost, over, on or under Hennepin County Regional Railroad Authority (HCRRA) property (the "Permitted Property") described as:

That part of the below described property:

1) Hennepin County Regional Railroad Authority's - Hopkins to Victoria right-of-way, said right-of-way being described on HCRRA Property Map No. 1 (C.R. Doc. No. 5404251), and HCRRA Property Map No. 12 (C.R. Doc. No. 5518920);

2) Hennepin County Regional Railroad Authority's - Hopkins to Chaska right-of-way, said right-of-way being described on HCRRA Property Maps No.'s 13 through 30 (C.R. Doc. No.'s 189393, 189394, 189395, 189396, 6525334, 6525335, 6525336, 6525337, 6525338, 6525339, 6540289, 6540290, 6540291, 6540292, 6540293, 6540294, 6540295, 6540296, 6540297);

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which generally conforms to the center portion of the corridor and more or less as shown on Exhibit A.

Exhibit A is attached and incorporated by reference in this Permit.

GENERAL REQUIREMENTS

1. Permittee shall not make changes in the use of this Permit without the permission of
HCRRA.

BOARD OF COMMISSIONERS

Peter McLaughlin
Chair

Udita Kolbrik
Vice Chair

Mark Stempel
Secretary

Gail Orton
Treasurer

Mike Ouel

Randy Johnson

Ferrey Stoeke
2. Permittee acknowledges and understands that HCRRA at its sole discretion may modify or remove any sign of Permitted Facility placed on the Permitted Property due to future implementation of Light Rail Transit or other transportation improvements, or for any other reason.

3. Permittee is responsible to abide by all local, state or federal ordinances or regulations in the exercise of the rights herein given.

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8. The cost of this Permit shall be One and 00/100 Dollars ($1.00).

SPECIAL PROVISIONS

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Permittee

[Signature]

Date 8-30-06

Three Rivers Park District

HCRRA

[Signature]

Date 6-15-06

Director, Housing, Transit and Community Works
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
FAX: (612) 348-9710

PERMIT

File No. 73-330018
Permit No. 24-06

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3) Hennepin County Regional Railroad Authority's - Hopkins to Minneapolis right-of-way, said right-of-way being described on HCRRA Property Maps No. 13 through 4 (C.R. Doc. No.'s 5406782, 5406783, 5503268, 5503287, 5504270), and HCRRA Property Map No. 40 (C.R. Doc. No. 8350163), and HCRRA Property Maps No. 31 (C.R. Doc. No. 6760097),

which generally conforms to the center portion of the corridor and more or less as shown on Exhibit A.

Exhibit A is attached and incorporated by reference in this Permit.

GENERAL REQUIREMENTS

1. Permittee shall not make changes in the use of this Permit without the permission of HCRRA.

BOARD OF COMMISSIONERS

[Signatures of board members]
2. Permittee acknowledges and understands that HCRRA at its sole discretion may modify or remove any sign of Permitted Facility placed on the Permitted Property due to future implementation of Light Rail Transit or other transportation improvements, or for any other reason.

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4. Permittee and HCRA entered into a certain Permit Agreement bearing Agreement No. 73-33001, dated July 14, 1982, on file in the office of HCRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority "Hopkins to Chaska Rail Corridor", located in Hennepin and Carver Counties, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Chaska Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-33001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-33001, especially those pertaining to Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.

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(I, We), the undersigned, herewith accept the terms and conditions of the regulations as laid down by HCRRRA and agree to fully comply therewith to the satisfaction of the HCRRRA.

Permittee: [Signature]  Date: 8-31-06

Three Rivers Park District

HCRRRA: [Signature]  Date: 6-12-06

Director, Housing, Transit and Community Works
| Site | System # | Trail # | Direction | GPS | UTM | Location | Description | Site Category | Special Notes |
|------|----------|---------|-----------|-----|-----|----------|-------------|---------------|---------------|---------------|
| 1    | 1        | 1       | 1         | 1ST0458939 | 4904250| Buff Creek Drive | At end of parking lot where old kiosk is located. 1.5 foot of fill needed to level with trail. | Flat | Staff to rip out old kiosk and move benches. |
| 2    | -        | -       | 2         | 1ST0489250 | 4904697| Riley Ln Rd | 20 feet west of road on south side of trail. | Flat | Will need to move No motor V sign. Directional post needs careful placement due to buried cable in area. |
| 3    | -        | 2       | 3         | 1ST0450435 | 4965979| Dell Rd | 12 feet east of road. Kiosk on south side of trail (Center on "no motor" sign). Directional across from kiosk. | Flat | Dauer blade needed. No blade pointing SW until Hwy 212 construction is completed. |
| 4    | -        | -       | 4         | 1ST0453682 | 4966886| Edan Prairie Rd | East side of road. 25 feet east of sidewalk. South side of trail. | Flat | | |
| 5    | 2        | 3       | 5         | 1ST0452567 | 4971779| Venture Lane | Place kiosks on south side of trail. System Kiosk starts 65 feet south of Venture Ln (aligned with small tree in background). Directional on north side of trail. 76 feet from edge of road. | Flat | | |
| 6    | -        | -       | 6         | 1ST0453139 | 496904 | Valleyview Rd bridge | Place in Y between local trail connection east of Valleyview. 15 feet from end of Y and centered in Y. | Flat | | |
| 7    | -        | 4       | 7         | 1ST0463724 | 4970365| Edendale Blvd | East of Edendale. Kiosk on north side of trail 35 feet in from road edge. 1 foot fill needed for kiosk. Directional sign across from kiosk - also 35 feet from road. Flat for that. | Flat | 1 foot fill needed | |
| 8    | -        | -       | 8         | 1ST0464862 | 4972472| Roland Road | East side of road. 20 feet east of curb on north side of trail. | Flat | Need directional blade pointing south saying "Bryant Lake Park". Also need small directional signs along Roland, at turn into small parking lot @ Clearwater, and at Y in trail 200 yards past turn (replace Hemingway Park sign at that location). | |
| 9    | -        | 5       | 9         | 1ST0465566 | 4973217| Dominick Rd | East of Dominick Rd. North side of trail. 35 west from road. Directional and kiosk on same side with D5 closest to trail. | Flat | 2 to 3 foot fill needed | |
| 10   | -        | -       | 10       | 1ST0467275 | 4974089| 11th Ave crossing in Hopkins | South side of trail. 19' east of sidewalk. | Flat | verify ROW | |
| 11   | 3        | 6       | 11       | na        | na     | na | Na has exact location. | Flat | Part of Depot remodel | |
| 12   | -        | -       | 12       | 1ST0469602 | 4975229| Blake Road | East of Blake Road but west of Kinkehaan Creek by slogging benches. 10 feet west of existing park benches on south side. | Flat | | |
| 14   | -        | -       | 14       | 1ST0471947 | 4975183| Woodside | East of Woodside. South side of trail. 15 feet east start of trail edge. | Flat | | |
| 15   | 4        | 8       | 15       | 1ST0474427 | 4975057| France Ave spur trail/kiosk border | South side of trail. Start where trail pavement changes. System K, then Trail K, the Directional Sign in a row moving west. | Flat | | |
| 16   | 5        | 9       | 16       | 1ST0447706 | 4980708| DTVicor by TRIP Amphitheater | 35 feet west of sidewalk/path coming dove from main street. Locate kiosks on north side, with System K farthest east. Directional sign on south side across from trail kiosks. | Flat, with slight rise at back of about 1 foot. | Check status of new local trail behind Kiosk location. | |
| 13   | -        | 13      | 13       | 1ST0458806 | 499000 | Old kiosk site west of Park Rd | 10 feet west of park trail access on north side of trail. | Flat | Leave old kiosk for free being, may eventually replace with Park trail kiosk. Staff to remove Buckthorn bush next to directional sign location. Original Site 13 was wrongly plotted on map, that is why this is out of geographic order along the trail. | |
| 17   | -        | -       | 17       | 1ST0496913 | 4985875| Rolling Acres Rd | East of road. 19 feet east of spur trail. South side of trail. 1' drop | Flat | | |
| 18   | -        | 10      | 18       | 1ST0450207 | 4970051| East side of Hwy | Start trail kiosk even with blacktop. Locate kiosks posts on south edge of spur trail that runs to Hwy 7, with concrete pad going 8 feet into spur trail. Directional on north side of regular trail, which has a 1 foot drop. | Flat | 1' drop for D5 | Staff will need to stake this one carefully and will need to do make sure spur trail works with concrete pad of sign. Want to direct people to use tunnels, not Hwy crossing. | |
| 19   | -        | -       | 19       | 1ST0450137 | 4971076| West 65th St | 20 feet west of road on north side of trail. | Flat | | |
| 20   | -        | 11      | 20       | 1ST0452215 | 4972120| Eureka Rd/Smithtown | 60 feet west of intersection on north side of trail (kiosk). Direction on south side. 3 foot fill needed for kiosk. 1 foot drop for DS. | Flat | Have a blade point to DT Excelor. | |
| 21   | -        | -       | 21       | 1ST0455840 | 4972264| Water Street In DT Excelor | West of Water St at end of paved portion of trail. Start at pavement end on south side. | Flat | | |
| 22   | -        | 12      | 22       | 1ST0456237 | 4972294| Excelsior Blvd | 50 feet west of Excelsior on north side of trail (kiosk). Directional should be on same side but 5 feet closer to road. | Flat | 1 foot fill for kiosk, flat for DS. | |
| 23   | -        | 23      | 23       | 1ST0458541 | 4975692| Linwood Circle in Greenwood | West of Linwood there is a lake overlook. Directional sign should be centered across from overlook on south side of extension. | Flat | 4 foot drop - need sign extension. | |
| 24   | 6        | 13      | 24       | 1ST0467711 | 4974476| Minnehaha Blvd | Locate at old kiosk site on north side of trail. System Kiosk should be furthest east. Directional sign should be across from trail kiosk. | Flat | Staff needs to rip out old kiosk - move benches across trail on each side of new directional sign. | |
| 25   | -        | -       | 25       | 1ST0460280 | 4953266| Hwy 101 | West side of 101, center in V created by 101 spur trail and LRT trail - 5 feet in from V point. | Flat | | |
| 26   | -        | 14      | 26       | 1ST0458192 | 4976892| Tonkawood Rd | 140 feet west of Tonkawood Rd, kiosk on north side, directional on south side. 1.5 feet fill needed for Kiosk. | Flat | Blending north to Minna City Hall and services. | |
| 27   | -        | -       | 27       | 1ST0456513 | 4974122| Williston Rd | 40 feet west of Williston Road edge on south side of trail | Flat | Blending north to Burnell house site. | |
| 28   | -        | 15      | 28       | NA        | NA     | NA | | Flat | | |

**EXHIBIT A SHEET 9 OF 10**
<table>
<thead>
<tr>
<th>Site</th>
<th>System K#</th>
<th>Trail K#</th>
<th>Direction S#</th>
<th>GPS</th>
<th>UTM</th>
<th>Location</th>
<th>Description</th>
<th>Site Category</th>
<th>Special Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>-</td>
<td>-</td>
<td>29</td>
<td>1ST0468197</td>
<td>4970922</td>
<td>Minnetonka Mills Rd</td>
<td>South side of road, Directional on south side of trail 20 feet before existing rules and regulations sign.</td>
<td>Flat</td>
<td>Staff to demolish old kiosk, move rules and stop ahead signs, clean up trail in this area to make worthy of a trailhead status.</td>
</tr>
<tr>
<td>30</td>
<td>7</td>
<td>15</td>
<td>30</td>
<td>1ST0487666</td>
<td>4974790</td>
<td>DT-Hopkins old kiosk site</td>
<td>North side of trail at old kiosk location. All in a row with system kiosk furthest east, then trail kiosk, then directional sign.</td>
<td>Flat</td>
<td>Staff to demolish old kiosk, move rules and stop ahead signs, clean up trail in this area to make worthy of a trailhead status.</td>
</tr>
<tr>
<td>31</td>
<td>-</td>
<td>-</td>
<td>31</td>
<td>1ST0469520</td>
<td>4976801</td>
<td>36th St</td>
<td>15 feet east of sidewalk; south side of trail</td>
<td>Flat</td>
<td>Verify ROW</td>
</tr>
<tr>
<td>32</td>
<td>-</td>
<td>-</td>
<td>32</td>
<td>1ST0468789</td>
<td>4977808</td>
<td>Virginia Ave</td>
<td>Just west of Virginia Ave. Trail splits north to parking lot. Put post 20 feet east of V split on north side of trail.</td>
<td>Flat</td>
<td>Need SLP permission</td>
</tr>
<tr>
<td>33</td>
<td>8</td>
<td>17</td>
<td>33</td>
<td>1ST0471201</td>
<td>4978834</td>
<td>Dakota Park by new Rec Center</td>
<td>75 feet west of telephone pole that is directly north of new rec center. System kiosk, then trail kiosk, then directional sign in a row moving west.</td>
<td>Flat</td>
<td>Sites requested by SLP Parks</td>
</tr>
</tbody>
</table>

Note: There is no Trail Kiosk # 7
Page intentionally left blank.