

Department/Office/Council:
CA - City Attorney

Date Initiated:
11 SEP 2009

Green Sheet NO: 3079796

Contact Person & Phone:
Bob Kessler
266-9013

Must Be on Council Agenda by (Date):

Doc. Type: OTHER
AGREEMENT/CONTRACT

E-Document Required: N
Document Contact:
Contact Phone:

Assign
Number
For
Routing
Order

	Department	Sent To Person	Initial/Date
0	City Attorney		
1	City Attorney	Department Accountant	
2	City Attorney	City Attorney	
3	Financial Services	Director	
4	Mayor's Office	Mayor (if over \$50,000)	
5	HREEO - Human Rights	Human Rights (if over \$50,	
6	HREEO - Contract & Analysis Se	Contract & Analysis Serv	
7		Originating Department	

Total # of Signature Pages ____ (Clip All Locations for Signature)

Action Requested:

This is an amendment for the easement to the skyway agreement between the City of Saint Paul and Galtier LLC (Cray Plaza).

Recommendations: Approve (A) or Reject (R):

____ Planning Commission
____ CIB Committee
____ Civil Service Commission

Personal Service Contracts Must Answer the Following Questions:

1. Has this person/firm ever worked under a contract for this department?
Yes No
2. Has this person/firm ever been a city employee?
Yes No
3. Does this person/firm possess a skill not normally possessed by any current city employee?
Yes No

Explain all yes answers on separate sheet and attach to green sheet.

Initiating Problem, Issues, Opportunity (Who, What, When, Where, Why):

Grantor desires to change the location of the skyway easement in order to accommodate a major new tenant which will bring jobs and economic vitality to the Lowertown area of Saint Paul.

Advantages If Approved:

Disadvantages If Approved:

Disadvantages If Not Approved:

Total Amount of
Transaction:

Funding Source:

Financial Information:
(Explain)

Cost/Revenue Budgeted:

Activity Number:

AFTER RECORDING RETURN TO:
FREDRIKSON & BYRON, P.A. (KLN)
200 S. SIXTH STREET, SUITE 4000
MINNEAPOLIS, MINNESOTA 55402

THE SPACE ABOVE THIS LINE IS RESERVED FOR RECORDING PURPOSES.

RESTATED GRANT OF EASEMENT

WHEREAS, NEA Galtier, LLC, a Delaware limited liability company ("Grantor"), is the owner in fee of that certain land situated in the City of Saint Paul, County of Ramsey, State of Minnesota, more particularly described in Exhibit 1 attached hereto ("Grantor's Property"); and

WHEREAS, Grantor's predecessor-in-interest, pursuant to that certain unrecorded Skyway Agreement entered into on October 30, 1985 by and among the Port Authority of the City of Saint Paul, Mears Park Development Company, Lowertown Saint Paul Company, Saint Paul Area Young Men's Christian Association and the City of Saint Paul, Minnesota ("1985 Agreement"), did, by means of the 1985 Agreement and a Grant of Easement ("Grant of Easement"), grant to the City of Saint Paul, a public easement ("Skyway Easement") for purposes of pedestrian ingress, egress and transit through Grantor's Property for the pedestrian Concourse System of the City of Saint Paul, (the "System") and the location of the Skyway Easement was described in the Grant of Easement; and

WHEREAS, the structures on Grantor's Property were then constructed which included the public skyway areas, and for over twenty years the public has used the skyway areas within the Skyway Easement area on Grantor's Property; and

WHEREAS, Grantor desires to change the location of the Skyway Easement on the skyway level of Grantor's Property and has submitted to the City of Saint Paul for its approval plans and specifications in the forms attached hereto as Exhibit 2 showing the new location of the Skyway Easement ("Plans and Specifications"); and

WHEREAS, the City of Saint Paul is willing to approve the new location of the Skyway Easement on Grantor's Property on the condition that Grantor execute this Restated Grant of Easement; and

WHEREAS, upon the execution and recording of this Restated Grant of Easement and the completion of construction of the new Skyway Easement within Grantor's Property in accordance with the Plans and Specifications, this Restated Grant of Easement shall become effective for the new location of the Easement Area as described below and the existing skyway easement area on the skyway level of Grantor's Property is amended accordingly.

NOW THEREFORE, pursuant to the terms and conditions of the 1985 Agreement, and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Grantor, for itself, its successors and assigns, does hereby grant unto the CITY OF SAINT PAUL, a Minnesota municipal corporation, a perpetual and permanent public easement (the "Restated Skyway Easement") for public pedestrian ingress, egress and transit, in and through the Property and the structures thereon, in the areas identified as the "skyway" in the Plans and Specifications (the "Easement Area"). The Restated Skyway Easement amends and restates the Skyway Easement.

The Easement Area is expressly herein made subject to the City of Saint Paul's policy regarding: (i) open hours and closing any part or all of the Easement Area within, on or over Grantor's Property during non-business hours, (ii) public conduct within the System, and (iii) other skyway matters as specified in the City of Saint Paul's skyway ordinance, Chapter 140 of the City of Saint Paul's Legislative Code, and any amendments thereto or replacement ordinances.

The grant of easement herein shall be subject to the right of the Grantor to change the location of the easement conditioned upon the grant of a new easement which shall permit the continuity of the System, and on the further conditions that the new easement area shall be installed at the sole cost and expense of the Grantor, and that no change in the easement area or dimensions shall be made without the approval of the City of Saint Paul, such approval not to be unreasonably withheld, and, on the further conditions that said new easement shall be surveyed and described by a registered land surveyor at the expense of Grantor and that the new easement shall have the same character, quality and functional characteristics as the existing easement.

Notwithstanding anything to the contrary herein, the easement granted herein shall be limited to the life of the improvements constituting the System and shall terminate upon the happening of either of the following events:

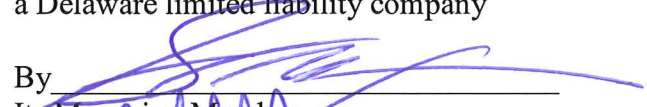
- A. In the event the public easement granted herein is vacated by the City of Saint Paul in the manner permitted by law; or
- B. In the event the building(s) in, upon or over which the Easement Area is located shall be substantially destroyed or demolished and such building(s) be reconstructed or replaced, Grantor, his successors and assigns agree that, without further consideration, a substitute easement of substantially equal convenience, area and general configuration shall be given. In the event the easement or any portion thereof is relocated, vacated or terminated under the provisions hereof, the City of Saint Paul shall furnish a release of such easement or portion thereof to Grantor, its successors and assigns.

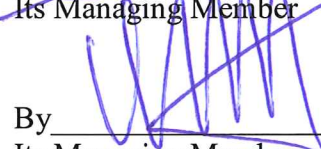
Grantor, for itself, its successors and assigns, does hereby agree that for and during the life of said easement, Grantor shall be responsible for and provide for the cost of all repairs, improvements and replacements of the Easement Area as described herein, it being understood that the aforesaid covenant shall run with the land.

TO HAVE AND TO HOLD said public easement for pedestrian ingress, egress and transit in accordance with the terms contained herein.

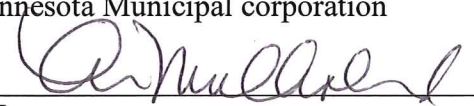
IN WITNESS WHEREOF, Grantor and City of Saint Paul have hereunto set their hands this 3rd day of September, 2009.

NEA Galtier, LLC
a Delaware limited liability company

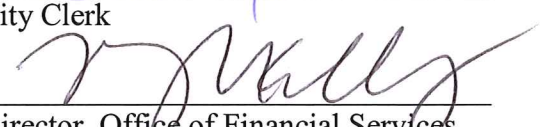
By 
Its Managing Member

By 
Its Managing Member

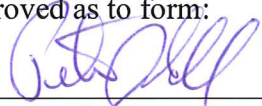
City of Saint Paul
a Minnesota Municipal corporation

By 
Its Mayor

By Shari Moore
Its City Clerk

By 
Its Director, Office of Financial Services

Approved as to form:


Assistant City Attorney

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.

On this _____ day of _____, 2009, before me, a Notary Public in and for said County, appeared and to me personally known, who, being, by me duly sworn, did say that they are respectively the Managing Member and Managing Member of said Grantor, and that _____ and _____ acknowledged that said instrument was the free act and deed of said Grantor.

See Attached State of CA Acknowledgment 

Notary Public

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY) ss.

On this _____ day of _____, 2009, before me, a Notary Public in and for said County, appeared and to me personally known, who, being, by me duly sworn, did say that they are respectively the Mayor, City Clerk and Director, Office of Financial Services of the City of Saint Paul, and that _____, _____ and _____ acknowledged that said instrument was the free act and deed of the City of Saint Paul.

Notary Public

This instrument was drafted by:
City Attorney
400 City Hall
Saint Paul, MN 55102

Exhibit 1

Tracts A, C and D, Registered Land Survey No. 417, files of Registrar of Titles, County of Ramsey.

Tracts B, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T and U which lie below elevation 15.00 feet, Registered Land Survey No. 417, files of Registrar of Titles, County of Ramsey.

Tracts B, C, D, E and F, Registered Land Survey No. 419, files of Registrar of Titles, County of Ramsey.

Tracts C, D, E and F, Registered Land Survey No. 420, files of Registrar of Titles, County of Ramsey.

Tracts A, H, I, J, K, N, O and P, Registered Land Survey No. 421, files of Registrar of Titles, County of Ramsey.

Tracts A, C, E, G, H, I, J, K, L, M and N, Registered Land Survey No. 422, files of Registrar of Titles, County of Ramsey.

Tracts E, H and J, Registered Land Survey No. 423, files of Registrar of Titles, County of Ramsey.

That part of Tract F which lies below elevation 105.00 feet, Registered Land Survey No. 423, files of Registrar of Titles, County of Ramsey.

That part of the Northwesterly 71.51 feet of Tract G, which lies below elevation 105.00 feet, Registered Land survey No. 423, files of the Registrar of Titles, County of Ramsey.

That part of Tract G, lying Southeasterly of the Northwesterly 71.51 feet thereof, Registered Land Survey No. 423, files of the Registrar of Titles, County of Ramsey.

Tracts D, F, G, H, K and L, Registered Land Survey No. 424, files of Registrar of Titles, County of Ramsey.

Tracts D, E, K and L, Registered Land Survey No. 425, files of Registrar of Titles, County of Ramsey.

Tracts D, E, F, G and J, Registered Land Survey No. 426, files of Registrar of Titles, County of Ramsey.

Tracts D, E and H, Registered Land Survey No. 427, files of Registrar of Titles, County of Ramsey.

Tracts D, E and H, Registered Land Survey No. 428, files of Registrar of Titles, County of Ramsey.

Tracts D, E, G and I, Registered Land Survey No. 429, files of Registrar of Titles, County of Ramsey.

Tracts D, E, H, I and J, Registered Land Survey No. 430, files of Registrar of Titles, County of Ramsey.

Tract G, Registered Land Survey No. 469, files of Registrar of Titles, County of Ramsey.

Tract F, Registered Land Survey No. 470, files of Registrar of Titles, County of Ramsey.

Exhibit 1 Continued

Tract F, Registered Land Survey No. 471, files of Registrar of Titles, County of Ramsey.

Tract F, Registered Land Survey No. 472, files of Registrar of Titles, County of Ramsey.

Tract F, Registered Land Survey No. 473, files of Registrar of Titles, County of Ramsey.

Tracts A and B, Registered Land Survey No. 475, files of Registrar of Titles, County of Ramsey.

Tract A, Registered Land Survey No. 476, files of Registrar of Titles, County of Ramsey.

Tracts A, L and M, Registered Land Survey No. 478, files of Registrar of Titles, County of Ramsey.

Tracts A, UU and VV, Registered Land Survey No. 479, files of Registrar of Titles, County of Ramsey.

Tracts A and B, Registered Land Survey No. 513, files of Registrar of Titles, County of Ramsey.

All elevations refer to City of Saint Paul Datum. Elevation 00.0 feet City of Saint Paul Datum equals elevation 694.10 feet mean sea level datum as established by United States Coast and Geodetic Surveys, North America Datum, 1929.

Exhibit 2

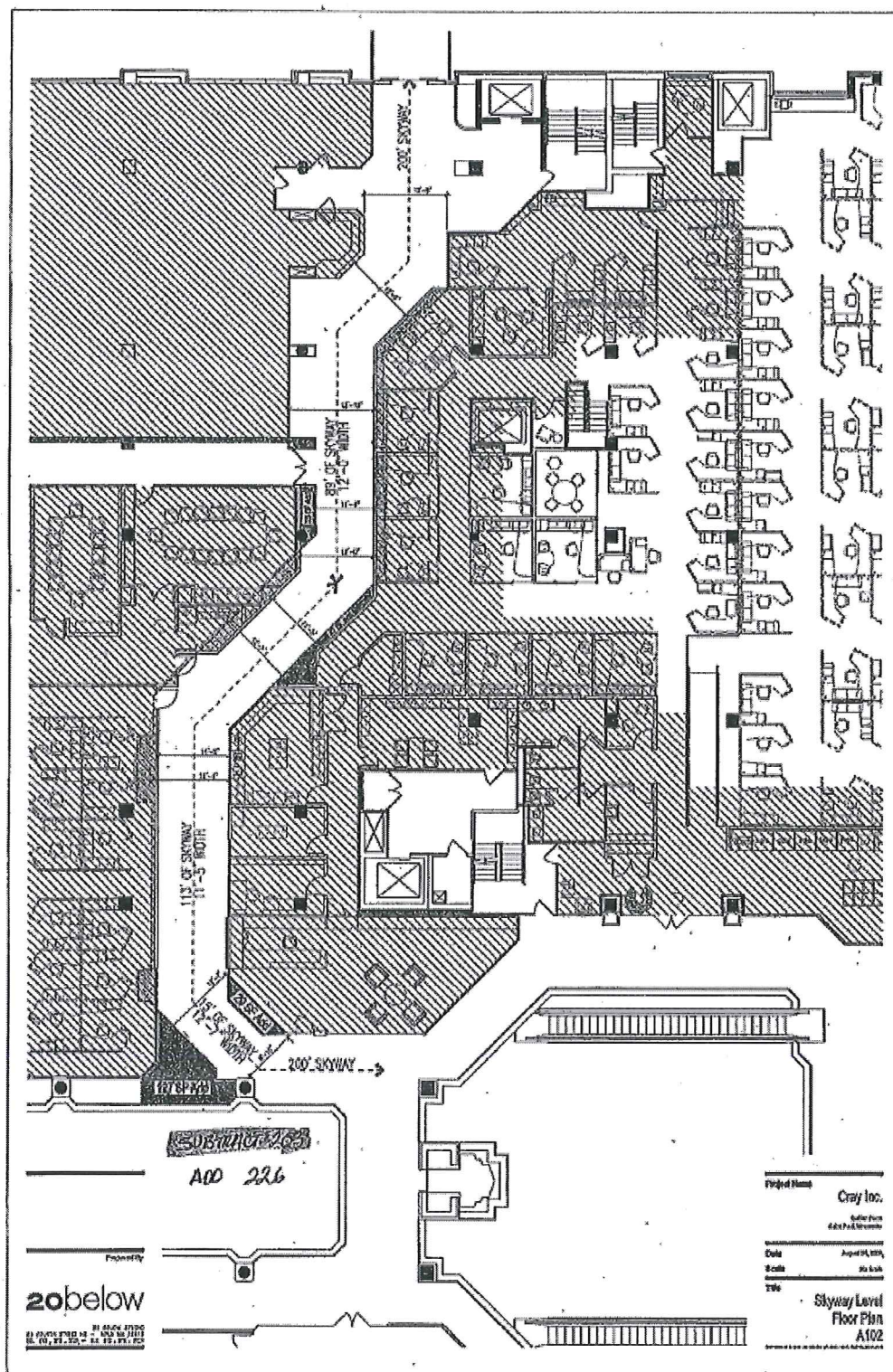


Exhibit 2 Continued

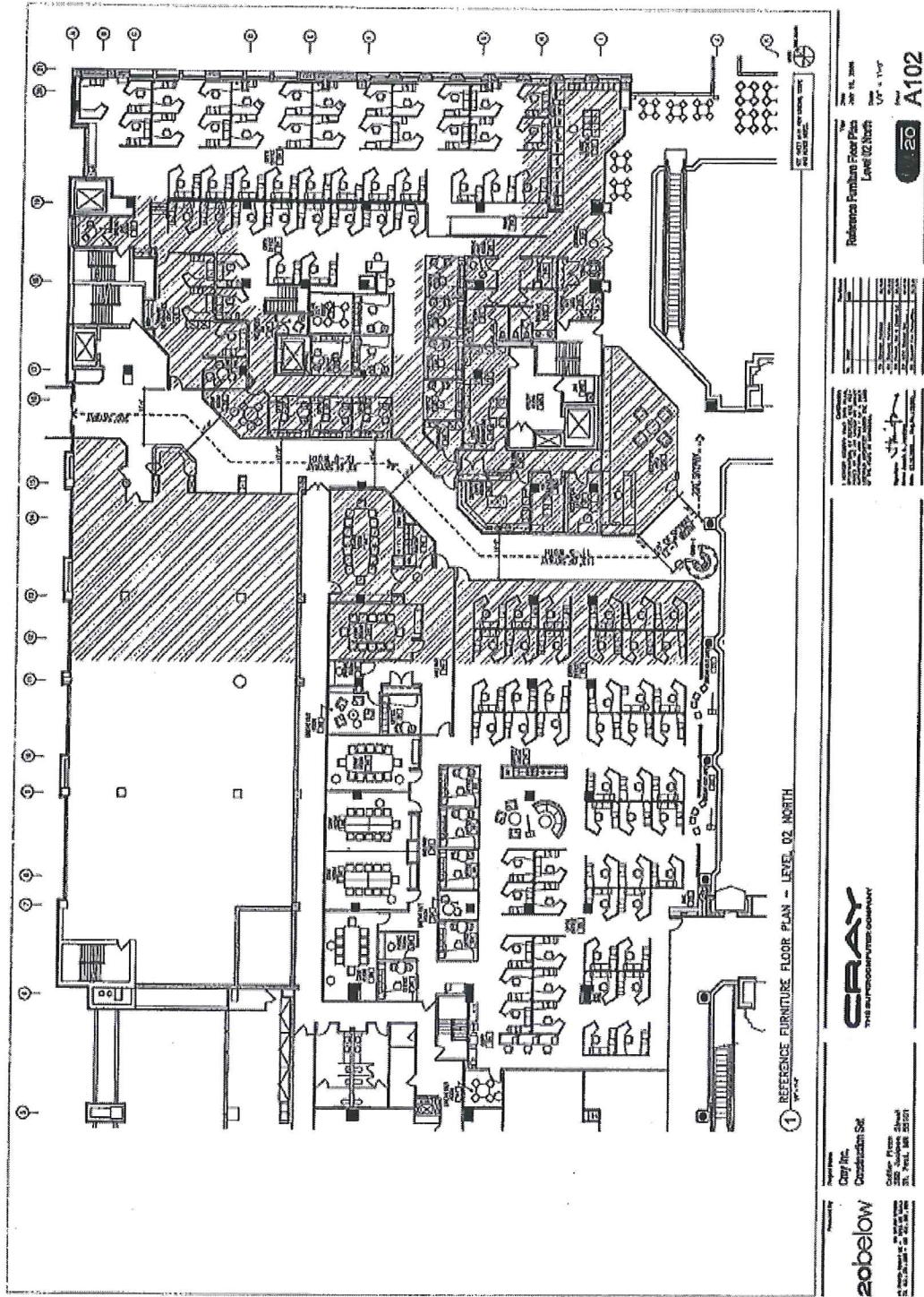
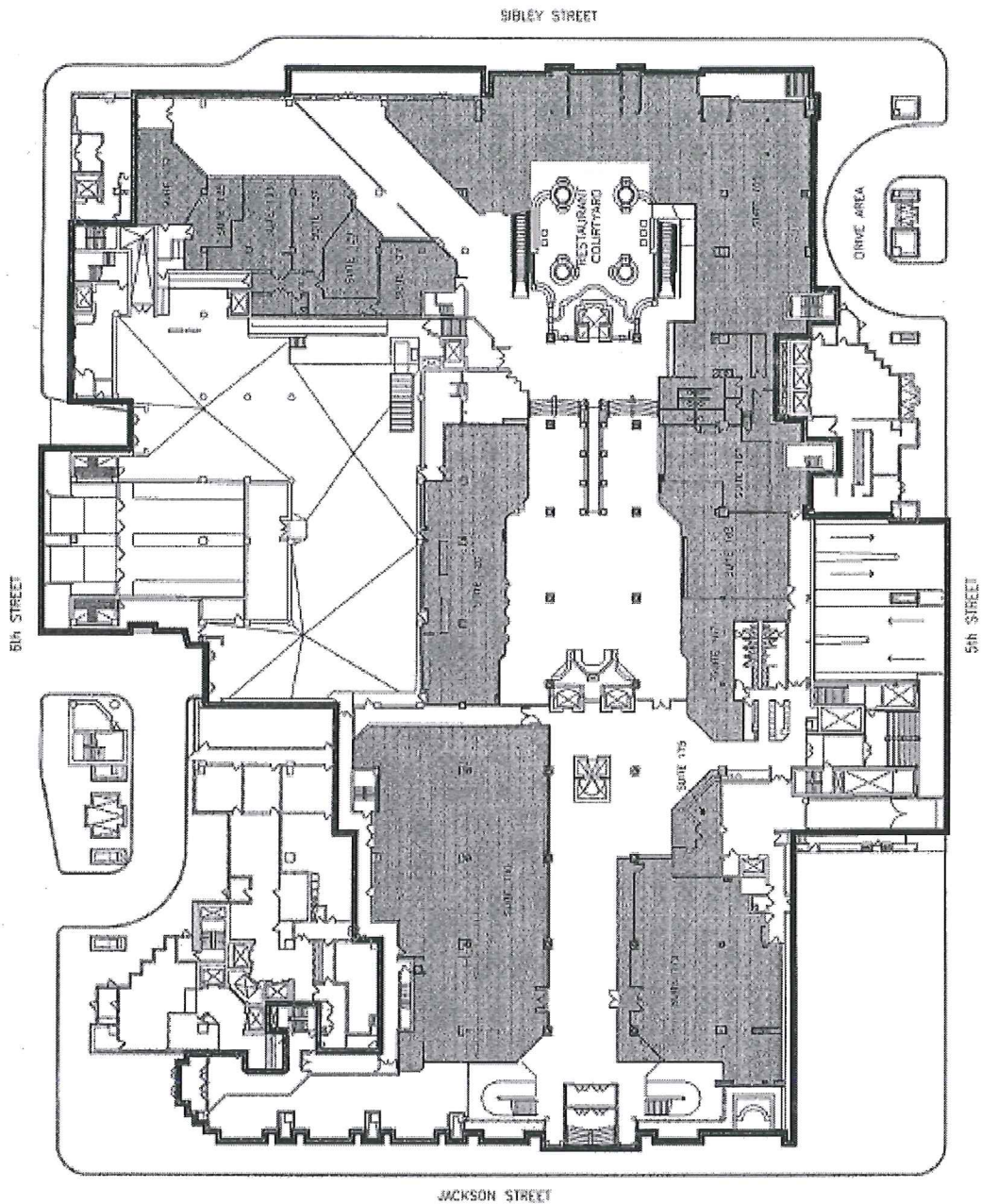
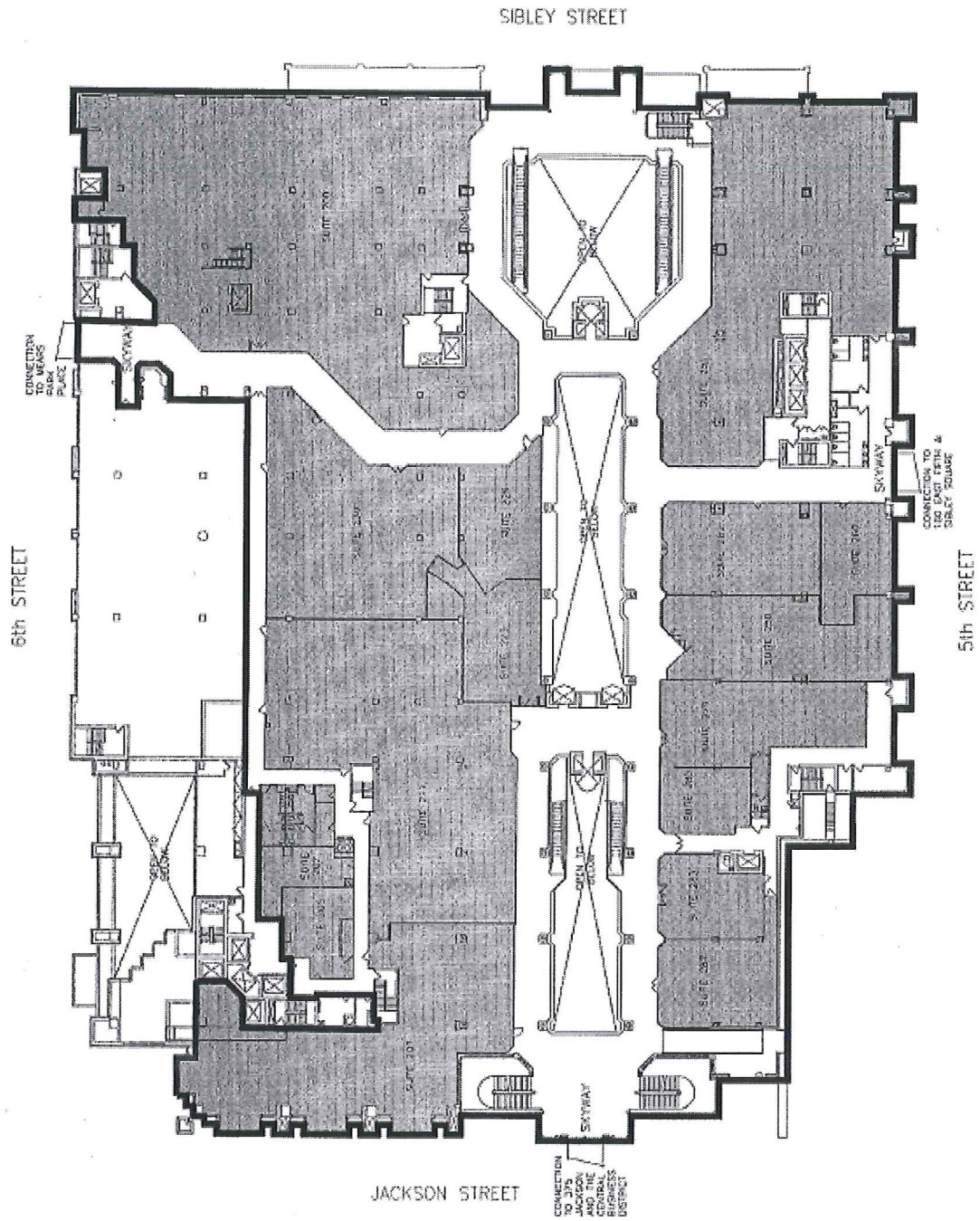


Exhibit 2 Continued



GALTIER PLAZA
FLOOR 1

Exhibit 2 Continued



ACKNOWLEDGMENT

State of California
County of Los Angeles)

On September 3, 2009 before me, Kimberly Gonzaga, Notary Public
(insert name and title of the officer)

personally appeared Steven M. Resnick and Dale Stark,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are
subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in
~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Kimberly Gonzaga* (Seal)

NANNETTE S. HYNES
1681 HIGHLAND PKWY
SAINT PAUL, MN 55116-2104

10218

17-1/910 930
9193138667

14 Sept 2008 Date

Pay to the
Order of

City of St Paul

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One + 00/100

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