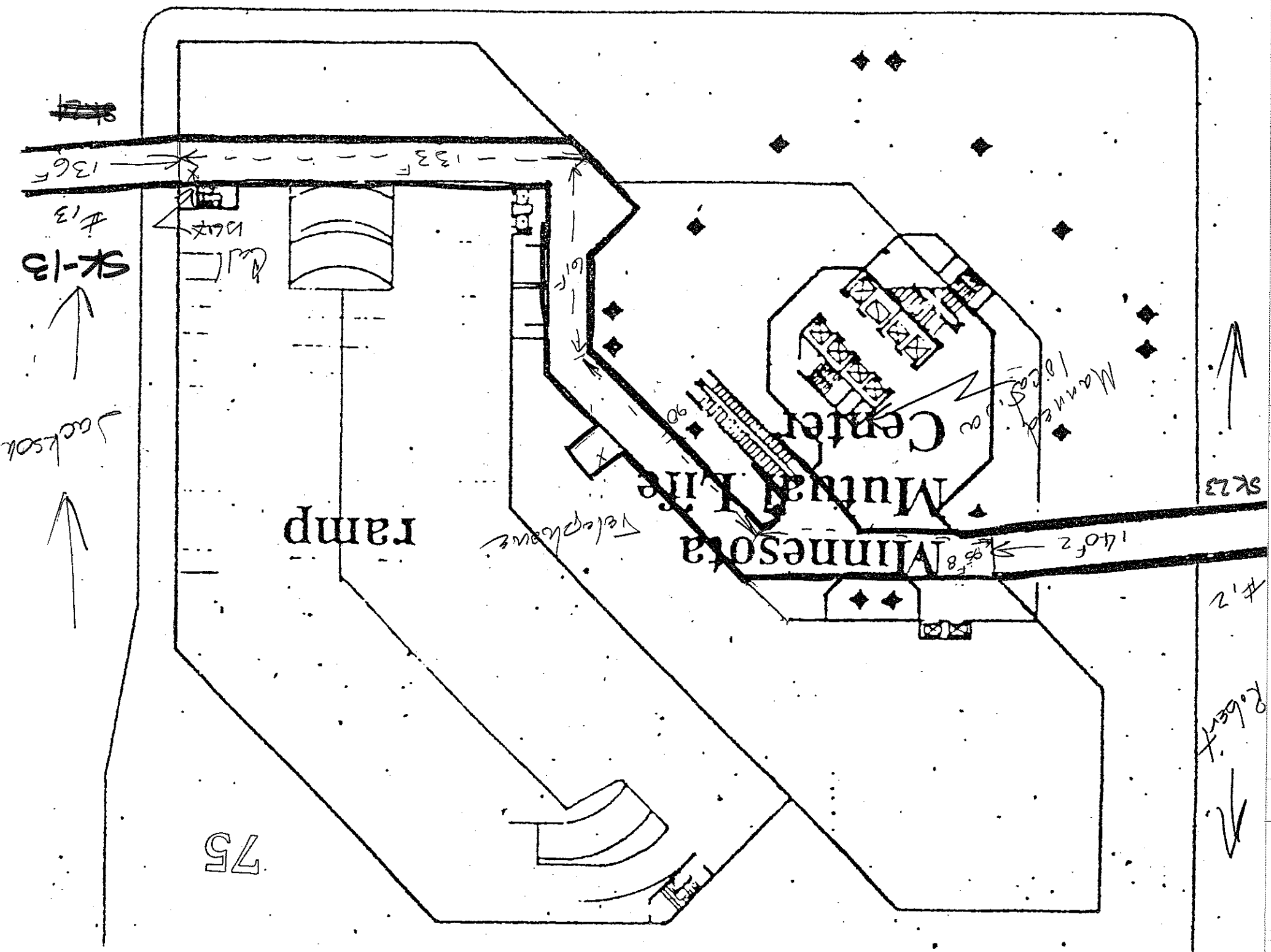
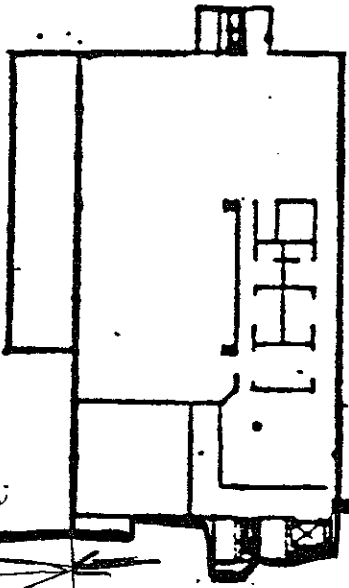
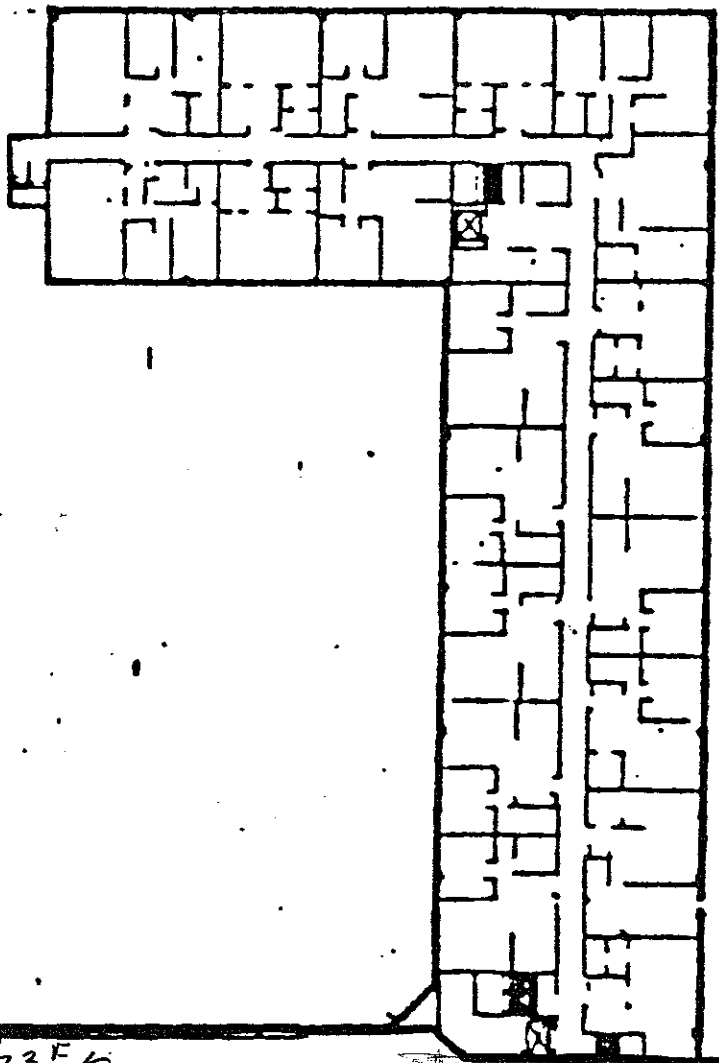
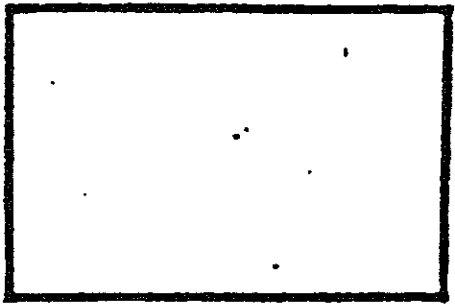
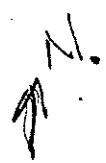






rockson

Sibley

SK 14

#14

SK24 #13

273' 6"

136' 6"

45' 6"

31' 6"

101' 6"

85

Call box N
203' 6"

Mears Park Place

from west side of N/S EASEMENT

91' 8"

SK28

Sixth St

SKYWAY AGREEMENT

THIS AGREEMENT is made and entered into this 13th day of January, 1981, by and between the HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA, a Minnesota public body corporate and politic, hereinafter referred to as the "HRA"; the CITY OF SAINT PAUL, a municipal corporation, hereinafter referred to as the "City"; the MINNESOTA MUTUAL LIFE INSURANCE COMPANY, an insurance corporation organized and existing under the laws of the State of Minnesota, hereinafter referred to as "MML"; and LOWERTOWN SAINT PAUL COMPANY, a Minnesota limited partnership, hereinafter referred to as "Lowertown."

WITNESSETH:

WHEREAS, the City and the HRA, through the Downtown Urban Renewal Project, Minn. A-1-5, undertook to develop a pedestrian skyway system within the Downtown Central Business District and the Central Core Renewal Area, hereinafter referred to as the "System"; and

WHEREAS, the City, pursuant to Chapter 764, Laws of Minnesota 1973, is authorized to operate the System; and

WHEREAS, MML is constructing upon "Block C", that block bounded by Robert, Jackson and Sixth Streets, and East Seventh Place, an office building (hereinafter referred to as "MML Building") pursuant to a Contract for Sale of Land for Redevelopment dated August 31, 1979, as further amended July 21, 1981, which contract provides for certain undertakings with respect to the construction and extension of the System; and

WHEREAS, Lowertown is the owner of that portion of "Block 36" (that block bounded by Jackson, Sibley and Sixth Streets, and East Seventh Place) on which are located improvements named and hereinafter referred to as "Mears Park Place", which are subject to certain agreements and covenants respecting the construction and extension of the System; and

WHEREAS, an extension of the System over Jackson Street between East Sixth Street and East Seventh Place from the MML Building on the west, to Mears Park Place on the east, has been approved by the Council of the City of Saint Paul on December 5, 1978 in Council File No. 272155, which Council File has been filed with the City Clerk of the City of Saint Paul; and

WHEREAS, the extension of the System over Jackson Street necessitates under the terms of this Agreement, pedestrian ingress, egress and transit through certain portions of the MML Building and Mears Park Place; and

WHEREAS, all parties hereto are desirous of the construction of the skyway bridge over Jackson Street; and

WHEREAS, substantial public monies will be expended for the design and construction of said skyway bridge over Jackson Street; and

WHEREAS, a benefit will inure to the respective property owners by virtue of being linked to the System; and

WHEREAS, the City by Ordinance No. 16686, Council File No. 275313, granted the HRA permission to construct and operate a skyway bridge across Jackson Street between East Sixth Street

and East Seventh Place, which Ordinance is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

BRIDGE CONSTRUCTION

1. The HRA agrees to design and construct a skyway bridge connecting the MML Building with Mears Park Place in accordance with HRA and City approved plans and specifications prepared for HRA by Hammel, Green, Abrahamson and reviewed by MML and Lowertown. HRA will also construct all mechanical, electrical and drainage systems, installations and connections as shown in the approved plans and specifications as part of the HRA construction contract. Lowertown is not obligated to contribute to the cost of design or construction of the bridge.

2. MML and Lowertown shall be responsible for and provide at their own cost all necessary support structures within their respective buildings for accommodation of the bridge; except that HRA shall design, construct and pay for a single "T" column support or pier with required footings on Mears Park Place Property which is not within the building structure, as shown by the approved plans and specifications. The design and construction cost of such support or pier shall be paid solely by HRA.

3. Said skyway bridge shall include the necessary mechanical and electrical equipment for heating, ventilating and air conditioning ("HVAC"), lighting and roof drainage. The mechanical and electrical systems of the MML Building, which MML Building systems shall be of sufficient capacity to serve the bridge.

The roof drainage systems shall be tied, in accordance with the approved plans and specifications, into the respective systems of the MML Building and Mears Park Place, which systems shall be of sufficient capacity to serve the bridge. Pursuant to the approved plans and specifications, the bridge mechanical, electrical and westerly roof drainage lines shall be connected to the in-place MML Building systems, such connection costs to be part of the bridge total construction cost. The easterly roof drainage lines shall be connected to the Mears Park Place systems at the sole expense of HRA. Said skyway bridge shall also include finishing at skyway bridge ends, a lighted grill ceiling, terrazzo floors, triple insulated glass to the extent glass is used to enclose said skyway bridge, and aluminum and glass doors at both ends of the bridge.

4. HRA will include a provision in its contract for the construction of the skyway bridge, without releasing or extinguishing HRA's rights thereunder, whereby the contractor consents to the assignment of statutory, implied and express warranties to the owners of the buildings abutting the bridges. HRA shall assign such warranties to them upon approved contract completion, without relinquishing its own rights under such warranties, and, if necessary, HRA will cooperate in any prosecution of lawful and proper claims such owners may later assert against the contractor(s) or others or in the defense of any claims arising from faulty, improper or unworkmanlike design or construction of the skyway bridge or any of its components or improper or unworkmanlike

connections, integral parts or related equipment. HRA will use its best efforts to insure that the design and construction of the skyway bridge and pedestrian concourse shall be in accordance with all applicable ordinances and state and local codes, and/or shall be approved as constructed according to such ordinances and codes.

CONCOURSE CONSTRUCTION AND COST RESPONSIBILITIES

5. MML is obligated to provide and be responsible for an elevator, emergency exits and pedestrian concourse areas at the first and second levels of the MML Building in accordance with a skyway agreement dated August 3, 1981. Public easements as provided therein shall be granted by MML so that such facilities will be available for use by the general public.

6. Lowertown shall at its own expense, complete and continue to the extent agreed the pedestrian concourse area from that portion thereof now existing on its property, to the east end of the skyway bridge to be constructed under this agreement.

7. All other costs for the construction and completion of the pedestrian concourse areas within the MML Building and Mears Park Place, except as otherwise specifically provided for herein, shall be borne respectively by them.

EASEMENTS AND HOURS

8. Lowertown hereby agrees to grant to the City a public easement for the pedestrian skyway system through Mears Park Place in general accordance with the map marked Exhibit B and

attached hereto. Said easement to be granted by Lowertown shall be in the form attached hereto as Exhibit C. It is agreed by all parties that the skyway bridge herein and the new pedestrian concourse provided for in Mears Park Place shall be open for public ingress, egress and transit as defined in Exhibit C from 6:00 a.m. to 10:00 p.m., Monday through Friday; 6:00 a.m. to 6:00 p.m., Saturday; and closed Sunday. Lowertown may prohibit ingress to the pedestrian concourse, through the street level access and stairway thereto indicated on Exhibit B, after 6:00 p.m., anyday, so long as egress to the street is permitted during all hours when the concourse is open. These hours are subject to the general power of the City to prescribe system hours by ordinance.

9. The new public easement through Mears Park Place shall be in general accordance with the map marked Exhibit B herein and shall commence at the westerly property line of Mears Park Place where the skyway bridge over Jackson Street from MML intersects Mears Park Place air space and shall extend in an easterly direction up to and including the completed pedestrian concourse in Mears Park Place.

* 10. The public easement through the MML Building is required by and shall be in accordance with that certain skyway agreement dated August 3, 1981, to which MML is a party.

11. The public easement provided for herein shall be continuously at least 12 feet in width, except at nodes, if any, where it may be larger; or where stairways or the structural design of the existing building or improvements is such that a width of 12 feet is impossible or infeasible.

12. Said easement shall be legally described, at HRA expense, after survey of the completed pedestrian concourse public easement agreed area by a registered land surveyor.

13. Lowertown agrees that the pedestrian concourse within the easement herein described and the adjacent access areas shall be considered public easements and that all ordinances of the City applicable to the System shall govern.

14. The HRA and City hereby waive any right they may have to share in an award of damages in the event that a public body acquires all or any part of the aforesaid Mears Park Place or MML Building by condemnation or under the threat of condemnation. Said waiver does not apply to the skyway bridge or to the T column support or pier.

15. It is agreed by and between the parties hereto that the skyway bridge and T column support shall at all times be owned by the City and/or HRA, and said skyway bridge shall not constitute property leased, loaned or otherwise made available to second parties, or any one of them (within the meaning of Chapter 272.01(2) of Minnesota Statutes), it being understood that said skyway bridge is intended to benefit the City and the public generally.

OPERATION, MAINTENANCE AND REPAIR

16. Lowertown and MML agree to maintain, repair and operate the electrical, drainage and HVAC facilities in and serving the skyway bridge at their sole cost and expense, and shall keep and maintain the skyway bridge in repair and in safe condition for the pedestrian travel specified herein, reasonably clean and free of litter and debris.

17. Lowertown and MML further agree to provide the necessary repair, operation and maintenance of the skyway bridge and its integral parts, including the T column support or pier, at their sole expense, without cost to the City or HRA. Such maintenance shall include, but not be limited to, glass, floor, hardware and metal trim cleaning, polishing, repair and replacement; roof maintenance; repainting; light bulb replacement and light fixture cleaning. HRA and City shall be furnished both preliminary and final plans and specifications for all additions, alterations or repairs and replacements (or in the case of minor repairs and replacements, a reasonably detailed description thereof) to the skyway bridge or support structures, which plans and specifications shall be subject to City's and HRA's reasonable and timely approval or disapproval before commencement of the work contemplated therein. Lack of action on either preliminary or final plans and specifications to approve or disapprove within 30 days of receipt shall be conclusively deemed approval.

18. Lowertown and MML shall enter into a separate written agreement for sharing the maintenance, operation and repair costs and responsibilities for said skyway bridge, its integral parts and related equipment.

19. MML has agreed in that certain skyway agreement dated August 3, 1981, to provide all repairs and maintenance to maintain the pedestrian concourse within the MML property to a reasonable standard of safety and cleanliness and to provide operating costs for said pedestrian concourse. Lowertown hereby agrees to provide

all repairs and maintenance and to maintain the pedestrian concourse within the Lowertown property to a reasonable standard of safety and cleanliness and to provide operating costs for said pedestrian concourse. HRA and City shall be furnished with both preliminary and final plans and specifications for all additions, alterations or repairs and replacements (or in the case of minor repairs and replacements, a reasonably detailed description thereof) to the pedestrian concourse, which plans and specifications shall be subject to City's and HRA's reasonable and timely approval or disapproval before commencement of the work contemplated therein. Lack of action on either preliminary or final plans and specifications to approve or disapprove within 30 days of receipt shall be conclusively deemed approval.

20. If MML and/or Lowertown fails to adequately maintain, repair and operate the said skyway bridge to a reasonable standard of safety, or shall fail to undertake reasonable maintenance, operation or repair of the pedestrian concourse areas through their respective properties within 30 days after receipt by the affected party or parties of written demand from the City, the City may undertake said reasonable and necessary maintenance, repair and operating tasks, and the costs incurred by City for said maintenance, repair and operation shall be assessed to and shall be paid forthwith by the defaulting property owner(s) or their sureties as applicable; provided, however, that the City retains the right to assess such costs against the party(ies) as a local improvement in the manner provided by law.

21. The skyway bridge and pedestrian concourses which are the subject of this Agreement shall not be operated for the purpose of advertising the name of any product or business or any other commercial purposes other than for or on store fronts in the pedestrian concourse, such store front signage shall not project out from the wall into the easement area except as subject to the reasonable approval of HRA and/or City before installation. Nothing herein contained shall prevent the installation and maintenance of skyway directional sign(s). All signage, other than that permitted hereinabove related to store-fronts, shall be subject to review and approval by the City prior to sign construction and installation.

SURETY BONDS AND INSURANCE

22. Lowertown and MML shall together furnish and maintain a surety bond in the amount of \$100,000.00 for the said skyway bridge to and in favor of the City of Saint Paul, as obligee, conditioned that said property owners shall indemnify and hold harmless the City in accordance with said Ordinance against all expenses and liability on account of all costs, suits and judgments arising out of or connected with the maintenance, operation and repair and/or removal of the skyway bridge, its integral parts and related equipment, and further conditioned upon the property owners complying with all terms and conditions expressed and contained in this Agreement as to maintenance, operation and

repair and/or removal of the skyway bridge, which surety bond shall be in such form as shall be reasonably approved by the City Attorney and shall have such surety as shall be reasonably approved by the Director of the Department of Finance and Management Services for the City. The HRA shall procure from the general contractor and provide to the parties, documentation evidencing that the general contractor is maintaining throughout the entire period of construction and erection of the skyway bridge, such insurance as set forth in the plans and specifications described in paragraph 1 herein naming the abutting property owners to the skyway bridge as additional insureds as required by said plans and specifications, specifically in accordance with Section 4., General Conditions, and Section 6., Special Conditions, of the construction contract for the skyway bridge.

23. Insurance required by paragraph 28 hereunder for hazard and liability for the skyway bridge shall be a maintenance cost to be assumed by Lowertown and MML and shall be shared in accordance with the separate agreement for the sharing of operating, maintenance and repair costs that Lowertown and MML shall enter into as provided herein.

24. Insurance required hereunder for hazard and liability for the areas designated as easements shall be a maintenance cost to be assumed by Lowertown for the pedestrian concourse located within its building.

25. Lowertown and MML shall furnish and maintain public liability and casualty insurance coverage for the skyway bridge; and Lowertown shall furnish liability insurance for the portion of the pedestrian concourse within its property, with a duly licensed insurance company, wherein the City and HRA shall be designated as additional insureds, said insurance containing the following minimum coverages: for property damage to the extent of \$200,000.00 in any single accident; for personal injuries, including death, \$500,000.00 for each occurrence. Such minimum amounts shall be subject, upon 60 days notice, to reasonable change by official action of the Council of the City of Saint Paul, in the event statutory municipal liability limits are altered by legislation or judicial decision at any time after the date hereof. The casualty insurance shall have an all-risk or physical loss coverage in the amount of the full replacement cost of the skyway bridge, as reasonably determined by the City from time to time.

DIRECTIONAL SIGNS

26. The location of directional signs or other signs that may be installed in the pedestrian concourse in Mears Park Place, shall be as shown on Exhibit B, or as subsequently agreed upon by HRA and Lowertown. HRA shall pay the initial cost of such directional signs. The cost of installing the directional signs and their integral parts, including supports, electrical connections and mounting hardware, and the cost of operating, maintaining and repairing the directional signs in Mears Park Place shall be borne by Lowertown. If the location of the pedestrian concourse

public easement in Mears Park Place is changed, the said signs shall be removed accordingly, and the cost of moving and re-installing signs to a new easement area shall be borne by Lowertown. If the said sign moving requires a change in the sign face, this shall be done at Lowertown's expense and consistent with the graphic design system established for System signs. Directional signs and graphics shall be of the same design, configuration and color as those in the existing skyway concourses.

BINDING OBLIGATIONS

27. This Agreement is subject to the terms and conditions of the aforesaid Ordinance No. 16686 as adopted by the Council of the City of Saint Paul, and all its terms and conditions are incorporated hereby by reference. All parties hereto, other than HRA and City, are considered to be permittee's successors under the terms of said Ordinance, except with respect to the obligations of the permittees for initial construction of said bridge under Sections 2(a), 2(b), 2(c), 2(d), 2(e), 2(g), 2(h), 2(i), 2(j), 2(l), 2(m), 2(n), 2(o) and 2(q) of said Ordinance.

28. The parties agree that in the construction, maintenance, repair and operation of the pedestrian concourse, they shall be bound by all City codes and ordinances governing the System insofar as applicable.

29. The respective rights and obligations of the parties set forth in this Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and assigns,

and shall continue in force until such time as said System, or the skyway bridge or that of the pedestrian concourse herein concerned is vacated or abandoned in the manner permitted by law, or terminated in accordance with the Grant of Easement.

30. It is understood that this Agreement does not govern the relationships and agreements by and among Lowertown and MML, themselves to each other, other than the requirements of paragraph 18 above.

31. This Agreement shall survive conveyance and delivery of the Grant of Easement provided for herein, and shall not be considered merged therein.

32. The property owners herein reserve unto themselves the unconditional right and privilege of selling, conveying and transferring their abutting and/or encumbered or involved real estate herein and assigning and transferring this Agreement to any other corporation, corporations, trust, trusts, individual(s), partnerships, or other forms of venture. In the event of transfer of any property owner's interest in the property, the owner (seller) shall be freed and relieved, from and after the date of such transfer, of all liability as respects the performance of any covenants or obligations on the part of owner (seller) contained in this Agreement thereafter to be performed; provided that owner's successor fully and without limitation assumes in writing all duties, responsibilities and covenants of the owner (seller) under this Agreement. For the purposes of this paragraph, "owner"

shall include, but not be limited to, lessors, lessees, sublessors and sublessees, and shall include Lowertown and MML.

33. Seven (7) days after the issuance of the written Notice of Final Inspection by the City, and its furnishing to Lowertown and MML, the obligations and duties contained in paragraphs 16, 17, 20, 21, 22 and 25, herein above, as to said skyway bridge, shall become operative.

34. Seven (7) days after substantial completion of the Lowertown pedestrian concourse, the obligations and duties contained in paragraphs 8, 19, 20, 21 and 25, herein above, as to said pedestrian concourse, shall become operative.

35. Any notice to the parties hereunder shall be considered sufficiently delivered if mailed, by certified mail, return receipt requested, postage prepaid, as follows:

a) To: City of Saint Paul
Donald Nygaard, Director
Department of Public Works
6th Floor, City Hall Annex
25 West Fourth Street
St. Paul, Minnesota 55102

and

Downtown Operations
HRA/City of Saint Paul, Minnesota
12th Floor, City Hall Annex
25 West Fourth Street
St. Paul, Minnesota 55102

and

City of Saint Paul
Peter G. Hames, Director
Department of Finance and
Management Services
Room 234, City Hall
St. Paul, Minnesota 55102

b) To: MML
Ray M. Antrim, MAI
Second Vice President
400 North Robert Street
St. Paul, Minnesota 55101

and

Steven P. Nystedt
Manager of Facilities
400 North Robert Street
St. Paul, Minnesota 55101

c) To: Lowertown Saint Paul Company

Dan McCarty
Carley Capital Group
315 W. Gorham Street
Madison, Wisconsin 53703

Gary Bailey
Bailey Enterprises, Inc
2233 University Avenue
St. Paul, Mn. 55114

A party may, by written notice, designate a different address to which notices to it shall be directed.

SUPERCEDURE CLAUSE

36. Nothing contained in this Agreement shall be construed to amend, alter or modify in any way, any of the provisions or obligations contained in or imposed by the General Policy Statement-Pedestrian Concourse System, Downtown Urban Renewal Project, Minn. R-20, (as Revised August, 1972), which is incorporated in the various Contracts for Sale of Land For Redevelopment as to which HRA, Lowertown and MML are parties, except insofar as this Agreement is in direct conflict and inconsistent with said General Policy Statement, in which case this Agreement shall supersede and be controlling.

HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SAINT PAUL, MINNESOTA

By Victor J. Tedaro
Its

By William L. Quinn
Its

APPROVED AS TO FORM

Philip B. Byrne 1-8-82

CITY OF SAINT PAUL

By George L. ...
Its Mayor

By James ...
Its Director, Department of Planning
and Economic Development

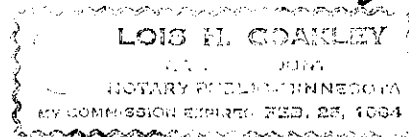
By Peter Hamer
Its Director, Department of Finance
and Management Services

By Albert B. ...
Its City Clerk

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

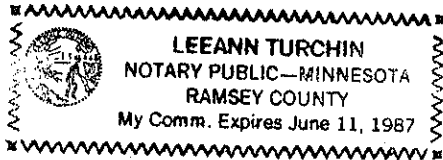
On this 11th day of January, 1981, before me, a
Notary Public within and for said County, appeared _____
Victor J Tedesco and William Wilson,
to me personally known, who, being each by me duly sworn, did say
that they are respectively the Chairman and
Secretary of the HOUSING AND REDEVELOPMENT
AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA, a Minnesota public
body corporate and politic, that said instrument was signed by
authority of its Board of Commissioners and said _____
Victor J Tedesco and William Wilson
acknowledged said instrument was the free act and deed of said
corporation.

Lois H. Coakley



STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

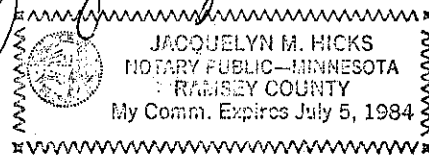
The foregoing instrument was acknowledged before me this 12th day of January, 1982, by GEORGE LATIMER, Mayor of the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.



Leeann Turchin

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

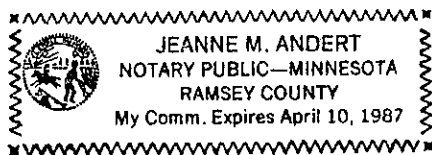
The foregoing instrument was acknowledged before me this 11th day of January, 1981, by JAMES BELLUS, Director of Planning and Economic Development for the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.



Jacquelyn M. Hicks

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

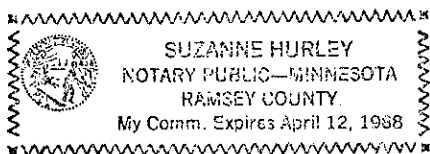
The foregoing instrument was acknowledged before me this 12th day of January, 1982, by Peter G. Hames, Director of the Department of Finance and Management Services for the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.



Jeanne M. Andert
~~ACTING DIRECTOR~~

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 12th day of January, 1982, by ALBERT B. OLSON, City Clerk for the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.



Suzanne Hurley

LOWERTOWN SAINT PAUL COMPANY

By Carley Capital Group, General Partner

By

Its

By

L. David Carley, General Partner

By

James E. Carley, General Partner

STATE OF Wisconsin)

) SS.

COUNTY OF Dane)

On this 16th day of November, 1981, before me, a Notary Public within and for said County, appeared L. DAVID CARLEY and JAMES E. CARLEY, to me personally known, who, being each by me duly sworn, did say that they are general partners of LOWERTOWN SAINT PAUL COMPANY, a Minnesota limited partnership, and that said instrument was signed on behalf of said partnership.

Laura J. Cartwright
My commission expires 1-15-84

STATE OF Wisconsin)

) SS.

COUNTY OF Dane)

On this 16th day of November, 1981, before me, a Notary Public within and for said County appeared James E. Carley, the General Partner of Carley Capital Group, a Wisconsin partnership, to me personally known, who, being by me duly sworn, did say that Carley Capital Group is a general partner of LOWERTOWN SAINT PAUL COMPANY, and that the foregoing instrument was signed on behalf of Carley Capital Group.

Laura J. Cartwright
My commission expires 1-15-84

Council ORDINANCE

Presented By

Referred To

Committee:

Date

Out of Committee By

Date

AN ORDINANCE MAKING PROVISION THEREFOR AND GRANTING UNTO THE HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA, A MINNESOTA CORPORATION, AND ITS SUCCESSORS OR ASSIGNS, PERMISSION TO CONSTRUCT, MAINTAIN AND OPERATE THE FOLLOWING OVER-HEAD PEDESTRIAN PASSAGEWAYS OVER PUBLIC STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF SAINT PAUL; AND

- 1) ACROSS JACKSON STREET BETWEEN THE INTERSECTION THERE- WITH OF EAST SEVENTH PLACE AND EAST SIXTH STREET, SAID OVERHEAD PEDESTRIAN PASSAGEWAY TO BE EXTENDED FROM THE MINNESOTA MUTUAL LIFE (MML) BUILDING ON THE WEST SIDE OF JACKSON STREET TO THE MEARS PARK APARTMENT BUILDING ON THE EAST SIDE OF JACKSON STREET.
- 2) ACROSS ROBERT STREET BETWEEN THE INTERSECTION THEREWITH OF EAST SEVENTH PLACE AND EAST SIXTH STREET, SAID OVERHEAD PEDESTRIAN PASSAGEWAY TO BE EXTENDED FROM TWIN CITY FEDERAL (TCF) ON THE WEST SIDE OF ROBERT STREET TO THE MINNESOTA MUTUAL LIFE (MML) BUILDING ON THE EAST SIDE OF ROBERT STREET.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1.

That permission and authority hereby are granted to the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a Minnesota corporation and/or its successors in interest to construct, maintain and operate the following overhead pedestrian passageways over public streets within the corporate limits of the City of Saint Paul; and

COUNCILMEN

Yeas

Nays

In Favor

Against

Adopted by Council:

Date

ertified Passed by Council Secretary

By

Approved by Mayor:

Date

By

Requested by Department of:

By

Form Approved by City Attorney

By

Approved by Mayor for Submission to Council

By

EXHIBIT "A"

- 1) across Jackson Street between the intersection therewith of East Seventh Place and East Sixth Street, said overhead pedestrian passageway to be extended from the Minnesota Mutual Life (MML) Building on the west side of Jackson Street to the Mears Park Apartment Building on the east side of Jackson Street.
- 2) across Robert Street between the intersection therewith of East Seventh Place and East Sixth Street, said overhead pedestrian passageway to be extended from Twin City Federal (TCF) on the west side of Robert Street to the Minnesota Mutual Life (MML) Building on the east side of Robert Street.

Section 2.

That the Director of Public Works is hereby authorized to issue necessary permits to said permittee, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, for the construction, maintenance, and operation of said overhead pedestrian passageways according to the plans and specifications approved by the Department of Public Works and at the separate cost and expense of said permittee, upon said permittee's compliance with the following conditions.

- a. That said permittee and/or its successors in interest shall, at its own cost and expense and in accordance with all applicable ordinances of the City of Saint Paul, statutes of the State of Minnesota and regulations of public authority having cognizance, construct, maintain and operate said overhead pedestrian passageway hereunder;
- b. That said permittee shall pay the costs for the publication of this Ordinance;
- c. That said permittee shall pay the costs of administration, engineering and inspection incurred by the Department of Public Works due to this undertaking. Said costs are estimated to be a sum of One Thousand Dollars (\$1,000.00) for each overhead pedestrian passageway noted above and shall be accounted for under a separate Department of Public Works project number(s);
- d. That said permittee shall furnish the Department of Public Works all documents of record for each overhead pedestrian passageway that are a part of the contract or incidental to its execution including, but not limited to, addendums, award of contract, contract amount, "as built" plans, tracings and tracings of shop plans;

- e. That said permittee shall construct each overhead pedestrian passageway to the satisfaction of the Director of the Department of Public Works in accordance with approved plans and specifications of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, said plans and specifications on file in the Department of Public Works. Such construction shall be made in strict compliance with the American Association of State Highway and Transportation Officials (AASHTO) Specifications, as amended, and the Uniform Building Code and be authorized under a building permit issued by the Department of Community Services, Division of Housing and Building Code Enforcement;
- f. That said permittee and/or its successors in interest shall fully indemnify, hold harmless and defend the City of Saint Paul, its agents, officers and employees from any and all damages, claims, losses, judgments, suits or expenses and on account of all claims of whatever nature for injury to person(s) and/or property arising out of or connected with the construction, erection, maintenance, operation and/or removal of each overhead pedestrian passageway hereunder; and that supplemental to all other obligations on their part, jointly and/or severally, hereunder, said permittee and/or its successors in interest shall furnish and maintain and pay all premiums and other expenses therefor, Casualty Insurance Coverage with a duly licensed Casualty Insurance Company to the extent of \$500,000.00 for injury to any person and/or persons in any single incident and to the extent of \$200,000.00 for damage to property in any single accident, insuring the City of Saint Paul against liability on account of all claims of third persons for injury to person(s) and/or property arising from or connected with the construction, erection, maintenance, operation and/or removal of each structure hereunder, at all times, and to furnish competent evidence of said coverage, from time to time, to the Director of Finance and Management Services of the City of Saint Paul; that such minimums shall be subject to increase by action of the City Council in the event statutory municipal liability limits are altered in any way hereafter;

- g. That said permittee shall not proceed with construction unless and until said permittee shall have fully complied with the provisions regarding insurance and indemnification contained in the City of Saint Paul, Department of Public Works "Standard Supplemental Specifications For Highway Construction" dated July 10, 1979, Section No. 1305.2. For the purpose of this Ordinance the aforesaid Section of said Specifications shall be read as though the word "permittee" was substituted for the word "contractor" wherever the same appears therein. Section 1305.2 of the Department of Public Works, City of Saint Paul, "Standard Supplemental Specifications For Highway Construction" dated July 10, 1979 is hereby incorporated herein by reference as fully and as completely as if set forth herein verbatim;
- h. That said permittee and/or its successors in interest, shall among other things, at their own cost and expense make adequate and effective provisions therefor and drain all moisture, rain, and snow which shall accumulate thereon by proper devices through each overhead pedestrian passageway and in a manner so that the flowing and/or spilling of same on any part of Robert or Jackson Streets shall be prevented at all times. Said permittee and/or its successors in interest shall maintain and operate each overhead pedestrian passageway at its sole cost and expense in a safe condition for pedestrian travel. Such maintenance to include, but shall not be limited to, glass, floor, metal trim and hardware cleaning, polishing and replacement; roof maintenance; repainting; light bulb replacement and light fixture cleaning; and the supply of heated and cooled air within said bridge to maintain temperatures comparable to that normally maintained within heated and air-conditioned office spaces, except as may be altered by energy conservation guidelines;
- i. That said permittee and/or its successors in interest shall, at all times, construct and maintain all the supports of each overhead pedestrian passageway entirely within the lines of the subject private real estate and entirely without public street rights-of-way, except that on the east side of Jackson Street, adjacent the Mears Park Apartment Building, a single column pier support may extend a maximum of one (1) foot into the street right-of-way;
- j. That said permittee shall notify the Traffic Bureau of the Department of Public Works if the construction or maintenance of each overhead pedestrian passageway shall make necessary the closing of Robert and Jackson Streets or any part thereof. All expenses incurred by the Traffic Bureau in furnishing, installing or removing barricades, signs and other control devices shall be paid by the permittee;

- k. That said permittee and/or its successors in interest shall not use any part of either overhead pedestrian passageway for any advertisement or display purposes, without the written consent of the City of Saint Paul and the application thereto of any advertising material or display shall be deemed prohibited by this Ordinance.
- l. That said permittee and/or its successors in interest shall, at all pertinent times, in the construction, maintenance and operation of each overhead pedestrian passageway hereunder, provide a minimum vertical clearance of at least 17 feet 4 inches between and throughout the course of the bottom of each structure and the surface of said Robert/Jackson Streets except as may be altered by the City's future street work in each case;
- m. That said permittee expressly agrees to comply with Chapter 216 of the Saint Paul Legislative Code as amended pertaining to street obstruction;
- n. That said permittee and/or its successors in interest shall complete the construction and erection of each overhead pedestrian passageway by not later than one (1) year after commencement of construction. Said commencement shall be evidenced by Public Works' receipt of a written notification thereof, and shall be dated therein, as further provided for under paragraph (o) below;
- o. That said permittee shall notify the City Bridge Engineer of the Department of Public Works before and when construction starts and notify the same said Bridge Engineer when construction has been completed to allow for a final inspection of each overhead pedestrian passageway;
- p. That said overhead pedestrian passageway shall be removed by and at the sole cost and expense of said permittee and/or its successors in interest whenever the Council of the City of Saint Paul shall by Resolution determine such removal necessary in the public interest and accordingly order the removal of either structure from said location;
- q. That said permittee shall, within a period of twenty (20) days after the publication of this Ordinance, file with the City Clerk its written acceptance of this Ordinance and agreement to be bound by all the provisions, terms and conditions thereof without limitation which written instrument of acceptance and agreement shall be in the form approved by the City Attorney;

- r. That upon the execution of an agreement by and between the City of Saint Paul, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota and the applicable building/property owners respecting the aforesaid pedestrian passageways the permittee, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota shall be relieved of any further obligation under the terms of this Ordinance, and the successors in interest of the permittee, the applicable building/property owners shall assume such obligations including responsibility for paying insurance premiums of said overhead pedestrian passageway connecting their buildings and responsibility for providing the maintenance, repair and operation of the same;
- s. That upon the Housing and Redevelopment Authority's conveyance of its obligations under the terms of this Ordinance to its successors in interest, said permittee's successors in interest shall furnish and deliver unto the City of Saint Paul a Surety Bond in the amount of One Hundred Thousand Dollars (\$100,000.00) for each overhead pedestrian passageway (bridge), made and executed by said permittee's successors in interest as Principal and a Corporate Surety Company duly authorized to transact business in the State of Minnesota as surety to and in favor of the City of Saint Paul as obligee, conditioned upon the permittee's successors in interest complying with the terms and conditions of this Ordinance and also conditioned that, in the event the permittee's successors in interest fail to maintain, operate or repair each overhead pedestrian passageway to a reasonable standard of safety, or fail to remove either overhead pedestrian passageway upon order by the Council, the City of Saint Paul may undertake the maintenance, operation, repair or removal thereof and may recover its reasonable cost incurred thereby from said Surety, which Surety Bond shall remain in full force and effect as long as each overhead pedestrian passageway or any part thereof remains in that portion of public right-of-way as shown on the plans on file with the Department of Public Works. The Surety Bond shall be in such form as shall be approved by the City Attorney and shall have such surety as shall be approved by the Director of Finance and Management Services;

Council - ORDINANCE

16626

Presented By _____

Referred To _____ Committee: _____ Date _____

Out of Committee By _____ Date _____

- t. That said permittee and/or its successors in interest shall submit proposed plans and specifications to the Department of Public Works for review and approval of any intended structural repairs or major maintenance work on each bridge, before any such work is carried out. Upon completion of such structural repairs approved by the Department of Public Works, permanent reproducible tracings shall be furnished the Department showing the work done and marked with any "as built" changes as well as reproducible shop drawing tracings of the same;
- u. That the successors in interest to the permittee in each instance shall submit the necessary insurance documents to the Office Engineer of the Department of Public Works. The Office Engineer in turn shall submit said documents to the City Attorney of the City of Saint Paul for review and, if said insurance is sufficient, said documents shall be filed with the Director of Finance and Management Services of the City of Saint Paul;

Section 3.

That this Ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication.

COUNCILMEN

Yeas _____ Nays _____

Hunt

Levine

~~Maddox~~

McMahon

Showalter

Tedesco

Wilson

Adopted by Council: _____ Date AUG 7 1980

Certified Passed by Council Secretary

By [Signature] AUG 11 1980

Approved by Mayor: _____ Date _____

By [Signature] AUG 16 1980

Requested by Department of:

Public Works

By Donald E. Nygaard by F

Donald E. Nygaard - Director

Form Approved by City Attorney TJE/RAH/d11

By [Signature]

Approved by Mayor for Submission to Council

By [Signature]

AAA

Jackson Street

MEARS PARK PLACE

Skyway Level

■ easement

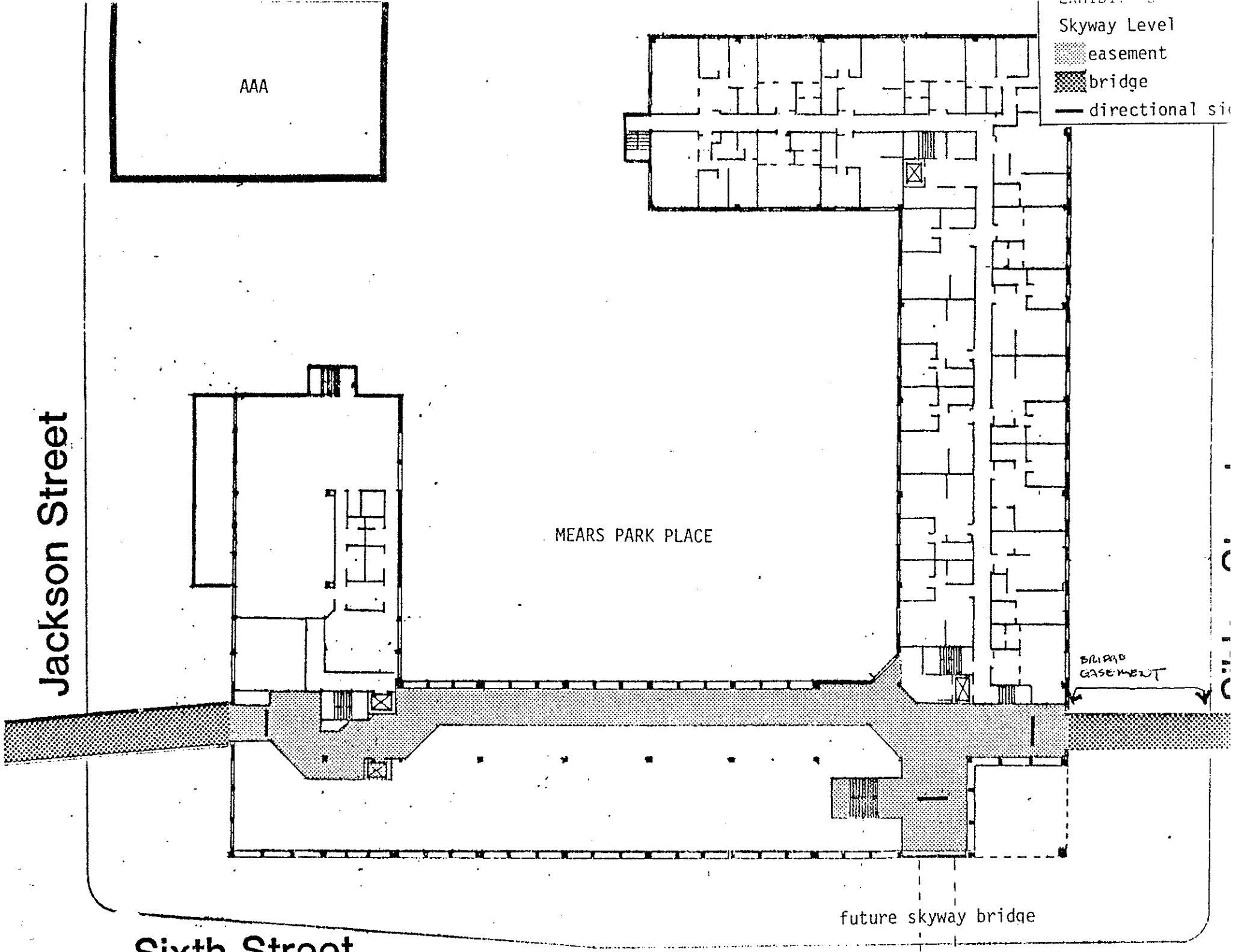
■ bridge

— directional sign

BRIDGE
EASEMENT

future skyway bridge

Sixth Street



Jackson Street

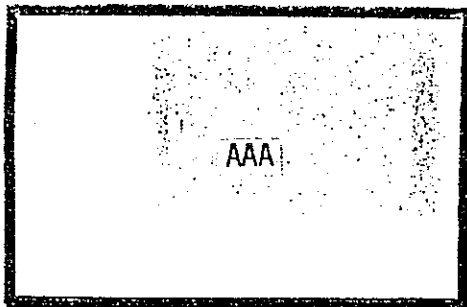
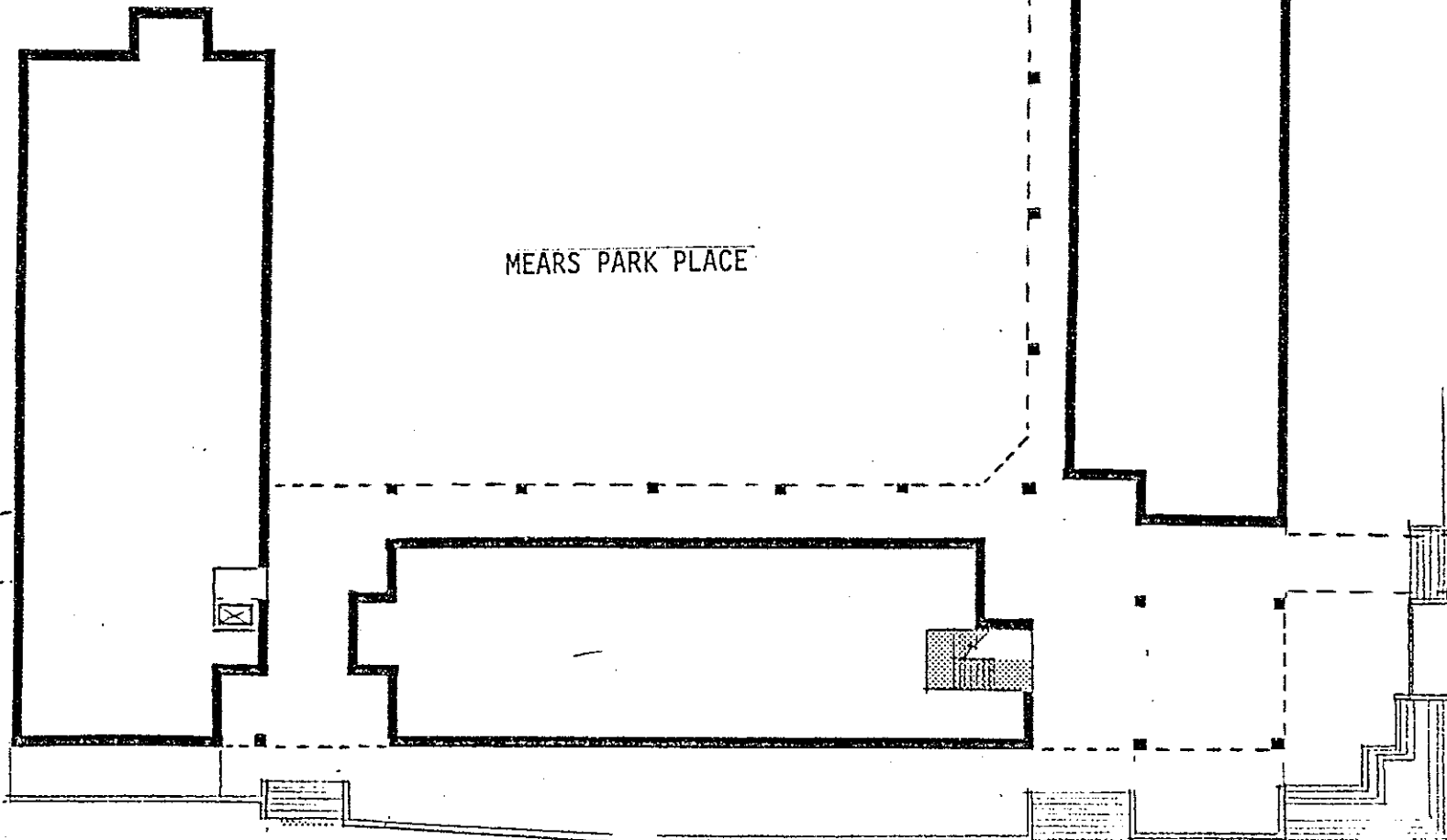


EXHIBIT "B"
Street Level
Easement

MEARS PARK PLACE

Sibley Street

Sixth Street



GRANT OF EASEMENT

WHEREAS, LOWERTOWN SAINT PAUL COMPANY, a Minnesota limited partnership, and its general partners, CARLEY CAPITAL GROUP, a Wisconsin partnership, JAMES E. CARLEY, and L. DAVID CARLEY, hereinafter collectively called "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, hereinafter called "Grantor's Property"; and

WHEREAS, Grantor has agreed pursuant to that Skyway Agreement dated _____, 1981, by and among the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, The Minnesota Mutual Life Insurance Company, and the Grantor herein, to grant to the City of Saint Paul a public easement for a second floor level pedestrian way, with vertical access and connecting ground level easement, also described as the Skyway Bridge and Pedestrian Concourse System.

NOW, THEREFORE, in pursuance of that 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 and its successors and assigns, does hereby grant unto the CITY OF SAINT PAUL, a Minnesota municipal corporation, an easement for the Skyway Bridge and Pedestrian Concourse System for the use and benefit of the public as a public way and for public ingress and egress and for pedestrian transit in and through only that part of the Grantor's Property and the structures thereon, described as follows:

together with an easement for public ingress to, egress from and transit to and from said System by way of vertical access from Street to the pedestrian concourse, described as follows:

and also together with an easement for public access on the ground floor level from the foot of the above described vertical access facilities to public sidewalks, described as follows:

and also together with an easement permitting placement on Grantor's property of the single T column support or pier supporting the skyway bridge concerned in said Skyway Agreement, described as follows:

all of which above described areas shall be collectively referred to as the "easement".

Public use of the easement area is expressly herein made subject to such reasonable police measures regarding open hours and closing any part or all of the easement during non-business hours and regarding public conduct within the System, as the City of Saint Paul may, by ordinance, from time to time determine.

The public's right herein to ingress and egress and pedestrian transit in and through the easement granted to the City herein shall be and hereby is made subject to such reasonable measures regarding open hours and temporarily closing part(s) or all of the easement within or in Grantor's Property as the City of Saint Paul may, by agreement with Grantor or its successors or assigns, from time to time, determine. This provision shall not diminish the City's right to, from time to time, exercise its police powers unilaterally, concerning hours open for public use, or temporarily closing part(s) or all of the easement to the public, or concerning public conduct within the System, nor shall such agreed or legislated hours in any manner restrict City's easement interest, as defined herein, but shall affect only the public's rights to ingress and egress and pedestrian transit in the easement. Grantor may prohibit ingress to the pedestrian concourse through the street level access and stairway indicated on Exhibit B to the Skyway Agreement aforementioned after 6:00 p.m. anyday so long as egress to the street is permitted during all hours the concourse is open for public use.

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 condition that the new easement area shall be installed at the sole cost and expense of the Grantor, and, on the further condition that no change in the easement location shall be made without the approval of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota and the City of Saint Paul, such approval not be unreasonably withheld, and, on the further condition that said new easement shall be surveyed and described by a registered land surveyor at the expense of the Grantor.

Notwithstanding anything to the contrary herein, the easement given 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 easement granted herein is vacated, abandoned or discontinued in the manner required by law.
- B. In the event the building(s), in, upon or over which the easement is located shall be substantially destroyed or demolished and such building(s) shall not be repaired or reconstructed; Provided, however, that in the event such building(s) be reconstructed or replaced, Grantor, its 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, City shall furnish a release of such easement or portion thereof, to Grantor, its successors or assigns.

Grantor, for itself, its successors and assigns, does hereby agree that for and during the life of said easement, Grantor, or its designee by separate agreement, shall be responsible for and/or provide for the cost of all repairs, improvements and replacements of the public way or Skyway Bridge and Pedestrian Concourse System as it passes through, on or over the lands as described herein, it being understood that the aforesaid covenant shall run with the land.

Grantor reserves unto itself, its successors and assigns, the unconditional right and privilege of selling, conveying and transferring the Property described above or any interest therein. In the event of transfer of the Grantor's interest in the property, the Grantor (seller) transferor shall be freed and relieved, from and after the date of such transfer, of all liability as respects the performance of any covenants or obligations on the part of Grantor (seller) contained in the Agreement which are thereafter to be performed; provided that the transferee fully and without limitation assumes in writing all duties, responsibilities and covenants of the Grantor hereunder.

TO HAVE AND TO HOLD, said easement for a public way or Skyway Bridge and Pedestrian Concourse System, together with all rights of ingress and egress appertaining thereto until the System is vacated or abandoned in the manner required by law, or terminated in accordance herewith.

IN WITNESS WHEREOF, Grantor has hereunto set its hand this
_____ day of _____, 19____.

LOWERTOWN SAINT PAUL COMPANY

By Carley Capital Group, General Partner

By _____
Its

By _____
L. David Carley, General Partner

By _____
James E. Carley, General Partner

STATE OF)
) SS.
COUNTY OF)

On this _____ day of _____, 19____, before me, a Notary Public within and for said County, appeared L. DAVID CARLEY and JAMES E. CARLEY, to me personally known, who, being each by me duly sworn, did say that they are general partners of LOWERTOWN SAINT PAUL COMPANY, a Minnesota limited partnership, that said instrument was signed by authority of its partners, and said L. DAVID CARLEY and JAMES E. CARLEY acknowledged said instrument was the free act and deed of said partnership.

STATE OF)
) SS.
COUNTY OF)

On this _____ day of _____, 19____, before me, a Notary Public within and for said County, appeared _____ of _____, the _____ of Carley Capital Group, a Wisconsin partnership, to me personally known, who, being by me duly sworn, did say that Carley Capital Group is a general partner of LOWERTOWN SAINT PAUL COMPANY, and that the foregoing instrument was signed on behalf of Carley Capital Group.

1274 (13)

JACKSON STREET SKYWAY BRIDGE MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of January, 1982, by and between the Lowertown Saint Paul Company, a Minnesota limited partnership (hereinafter referred to as Lowertown) and THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, a Minnesota corporation (hereinafter referred to as "MML");

W I T N E S S E T H :

WHEREAS, the City of Saint Paul, Minnesota ("City") and the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota ("HRA") have undertaken to develop a pedestrian skyway system within Saint Paul's downtown central business district; and

WHEREAS, the City and HRA have agreed to the extension of the pedestrian skyway system and the City is constructing a skyway bridge over Jackson Street (hereinafter referred to as the "Skyway Bridge") between the buildings occupied by Lowertown and MML pursuant to City Ordinance 16362, Council File 269927 (the "Ordinance") and

WHEREAS, pursuant to the terms of an agreement dated January 13, 1982 (the "Skyway Agreement"), Lowertown and MML have heretofore agreed by and between themselves, the City and HRA to maintain, repair and operate the Skyway Bridge and its related equipment at their sole cost and expense and have agreed to enter into a written agreement for sharing the maintenance, repair and operating costs of said Skyway Bridge and its related equipment.

NOW THEREFORE, in consideration of the mutual covenants contained herein, during the term hereof, it is hereby agreed by and between the parties hereto as follows:

1. HEATING, COOLING AND ELECTRICITY. MML shall pay all costs of connecting the mechanical and electrical systems of its building to the Skyway Bridge for supplying the necessary heat, cooled air and electrical power to the Skyway Bridge facilities. MML will heat and cool and provide electricity to the Skyway Bridge at its own cost and expense and will maintain the systems that heat and cool and provide electrical power to the Skyway Bridge at its own cost and expense.

2. CLEANING. Lowertown shall at all times keep the Skyway Bridge reasonably clean and free of litter and debris, and shall pay all costs of cleaning the Skyway Bridge. Such cleaning shall include, but not be limited to, glass, floor, hardware, metal trim and light fixture cleaning and polishing.

3. MAINTENANCE AND REPAIR. All other costs and expenses of maintaining, operating and repairing the Skyway Bridge shall be divided equally between the parties hereto. Such maintenance, operation and repair shall include, but not be limited to, repair and replacement of glass, floor and metal trim, roof maintenance, repainting, lightbulb replacement, light fixture replacement, and maintenance, repair and replacement of directional signs located in the Skyway Bridge, to the extent the parties hereto are liable therefor.

4. OTHER COSTS. Any other costs and expenses associated with the Skyway Bridge and of necessity incurred by or imposed on the parties hereto, including, but not limited to, any taxes or any cost of removal of the Skyway Bridge, shall be divided equally between the parties hereto.

5. COMPLIANCE WITH SKYWAY AGREEMENT AND ORDINANCE. Each of the parties hereto agrees to comply with all provisions of the Skyway Agreement and the Ordinance insofar as they pertain to the Skyway Bridge and the respective parties hereto.

6. DEFAULT, OPTION TO PERFORM, REIMBURSEMENT. If either party hereto shall default in the performance of its obligations hereunder and fails to cure such default within five (5) days after notice from the non-defaulting party, such non-defaulting party shall have the right, but not the obligation, to perform the duties of the defaulting party. (In the event such default, in the reasonable determination of the non-defaulting party, results in an emergency or creates a potentially hazardous situation, the non-defaulting party shall have the right to perform the duties of the defaulting party immediately and without notice.) In the event one party hereto performs any duties of the other party pursuant to the terms of this paragraph, the defaulting party shall promptly, upon demand, reimburse the non-defaulting party for all cost and expenses incurred in the performance of such duties.

7. REIMBURSEMENT OF CITY. If either party hereto fails to perform its duties under this Agreement with the result that the City directs the performance of or undertakes to perform such duties and assesses the costs thereof against the parties hereto pursuant to the terms of the Skyway Agreement, such costs shall be allocated as follows:

- (a) If the costs relate to obligations of Lowertown pursuant to Paragraph 2 of this Agreement, such costs assessed by the City shall be paid by Lowertown.
- (b) If the costs relate to obligations of MML pursuant to Paragraph 1 of this Agreement, such costs assessed by the City shall be paid by MML.
- (c) If the costs relate to obligations which are to be divided equally between the parties hereto, pursuant to Paragraphs 3 or 4 of this Agreement, such costs assessed by

the City shall be divided equally between the parties hereto.

In the event either of the parties to this Agreement receives any notice from the City with respect to the Skyway Bridge, the party receiving such notice shall promptly advise the other party of the contents of such notice.

8. SURETY BOND. The parties hereto agree that they shall jointly furnish and maintain a surety bond, as principals, as required by the Skyway Agreement, in the amount of \$50,000.00 in favor of the City as obligee conditioned that the principals shall comply with the provisions of the Ordinance and shall forever indemnify and hold the City harmless in accordance with the Ordinance against all expense and liability on account of all costs, claims, suits and judgements arising out of or connected with the maintenance, operation and/or repair of the Skyway Bridge, its systems and the adjacent access areas associated with each of the principal's respective buildings. The parties hereto agree that each of them shall pay one-half the cost of such bond.

9. REQUIRED INSURANCE. The parties hereto agree that they shall jointly furnish and maintain a policy or policies of public liability and casualty insurance covering the Skyway Bridge with a duly licensed insurance company wherein the City and HRA shall be designated as co-insureds, in form and with at least such minimum coverage as required by the terms of the Skyway Agreement from time to time. Lowertown and MML agree that each of them shall pay one-half the cost of such insurance policy or policies. The parties may, by mutual agreement elect jointly to maintain insurance coverage in force in greater amounts than required by the Ordinance.

10. DEFINITION. "Skyway Bridge" when used herein shall include that portion of the St. Paul pedestrian skyway system commencing at the point at which the Skyway Bridge structure over Jackson Street connects to the Lowertown building and extending to the point at which the bridge structure connects to the MML building. Each party hereto shall be solely liable for all costs arising out of or connected with the construction, maintenance, operation and repair of the skyway concourses, corridors and approachways connected to the Skyway Bridge and associated with its respective building, including any costs for required insurance coverages; and nothing contained in this Agreement shall be construed to create any liability on the part of one party for such costs required to be incurred solely by the other party.

11. TERM. The respective rights and obligations of the parties set forth in this Agreement shall inure to the benefit of and be binding upon the respective parties hereto and their assigns and successors as owners of the buildings to which the Skyway Bridge is to be attached, and shall continue in force until such time as the pedestrian skyway system or the part thereof covered by this Agreement is abandoned or vacated in the manner required by law or until such time as either MML's building or Lowertown's building is substantially destroyed or condemned and not rebuilt or restored. If such building is rebuilt or restored following such event, however, this Agreement shall continue in force and effect as to any skyway bridge constructed to replace the Skyway Bridge referred to herein. Notwithstanding the foregoing, each of the parties hereto reserves the right to sell, convey or otherwise transfer its interest in the building to which the Skyway Bridge is to be attached to any other corporation, corporations, trust, trusts, individuals, partnerships or other form of venture. In such event, the party making such

transfer shall be freed and relieved, from and after the date of such transfer, of all liability as respects the performance of any obligations of such party under the terms of this Agreement thereafter to be performed, provided that the transferee of such building agrees in writing to assume all such obligations of the transferring party.

12. AMENDMENT. This Agreement may be amended from time to time by written agreement executed by both parties hereto.

13. NOTICES. All notices, demands and other communications which may be or are required to be given by either party to the other shall be directed as follows:

(a) If to Lowertown to:

Dan McCarty
Carley Capital Group
315 W. Gorham Street
Madison, Wisconsin 50703

and

Gary Bailey
Bailey Enterprises, Inc.
2233 University Avenue
St. Paul, MN 55114

(b) If to MML to:

Ray M. Antrim
Second Vice President; and

Steven P. Nystedt
Manager of Facilities,
400 North Robert Street
St. Paul, MN 55101

or to such other persons or places as may be designated by a party hereto by a notice given in the foregoing manner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

LOWERTOWN SAINT PAUL COMPANY, a
Minnesota Limited Partnership

By _____

THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY

By Ray M. Antrim

RAY M. ANTRIM, SECOND VICE PRESIDENT