

AGREEMENT REGARDING
CONSTRUCTION, MAINTENANCE AND OPERATION
OF A SKYWAY BRIDGE OVER SIBLEY STREET
BETWEEN FOURTH STREET AND KELLOGG BOULEVARD
AND ASSOCIATED PEDESTRIAN CONCOURSES

BLOCK "L" - HRA
UNION DEPOT

THE CITY OF SAINT PAUL

1991

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SKYWAY AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 1991, by and among the CITY OF SAINT PAUL, a municipal corporation, hereinafter referred to as the "City"; HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA, a body politic and corporate under the laws of Minnesota, hereinafter referred to as the "HRA"; and First Trust National Association, a national banking association, hereinafter referred to as "First Trust".

WITNESSETH:

WHEREAS, the City and the HRA, through the Downtown Urban Renewal Project, Minn. R-20, undertook to develop a pedestrian skyway system within the Downtown Central Business District, 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, the HRA is the owner of a portion of that block bounded by Kellogg Boulevard, and Fourth, Jackson and Sibley Streets in St. Paul and more particularly described in Exhibit D of this agreement, City of Saint Paul; hereinafter referred to as Block L; and

WHEREAS, First Trust is the owner of a building and structures on that block bounded by Fourth, Sibley and Wacouta Streets and Kellogg Boulevard in St. Paul, located on land more particularly described as City of Saint Paul, hereinafter referred to as the "Union Depot"; and

WHEREAS, this Agreement touches and concerns the real property, described as follows in Exhibit D attached hereto; and

WHEREAS, First Trust and HRA agree to the construction of a skyway pedestrian bridge across Sibley Street from the Union Depot to the improvements to be constructed on Block L (hereafter the term "Block L" shall mean those certain improvements to be constructed on the property more particularly described in Exhibit D); and

WHEREAS, the parties hereto believe it to be desirable that the System be extended by public easement through Block L to the skyway bridge across Sibley Street and, by public easement, into and through Union Depot and declare their intention to so extend the System; and

WHEREAS, the said extension of the System necessitates pedestrian ingress, egress and transit through certain portions of Block L and Union Depot; and

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

WHEREAS, substantial public monies will be expended for the design and construction of a skyway bridge connecting Block L with the Union Depot; and

WHEREAS, a benefit will inure to the respective property owners by virtue of being linked to the System; and  NOW THEREFORE, BE IT RESOLVED AND AGREED TO BY THE PARTIES HERETO AS FOLLOWS:

CONSTRUCTION AND COST RESPONSIBILITIES

1. Design and Construction. The City agrees to design and cause to be constructed a skyway bridge connecting Block L with the Union Depot in accordance with the plans and specifications dated June 26, 1991 and August 7, 1991, prepared by Hammel, Green and Abrahamson, and reviewed by HRA and First Trust. City will accomplish any mechanical, electrical, drainage and security systems, installations and connections which are shown in the approved plans and specifications to be part of the construction contract. The total design and construction costs for said skyway bridge, including those costs relating to support structures over the alley and within the buildings, and improvements at bridge ends, (hereinafter termed the "Project"), shall be paid by HRA. In consideration of HRA's payment of Project costs, First Trust agrees to grant to HRA the Easement attached hereto as Exhibit F for access and utility connections to the former train waiting Concourse connected to Union Depot on the south.

2. Support Structures for the Bridge Within Buildings Over Private Property. HRA shall finance and construct facilities and/or improvements on Block L sufficient to permit the erection of a bridge and provide the necessary bridge support structures in Block L and the Union Depot.

3. Bridge HVAC, Lighting, Drainage Systems. Said skyway bridge shall include the necessary mechanical and electrical equipment for heating, ventilating and air conditioning ("HVAC"), lighting and roof drainage as provided for in the plans and specifications referred to in paragraph one hereof. In addition, and supplemental thereto, the mechanical, electrical and roof drainage systems (including HVAC) of the bridge shall be tied into the systems within the Union Depot, which systems shall be of sufficient capacity to serve the bridge. The said skyway bridge

shall also include finishing at skyway bridge ends, a linear metal ceiling, terrazzo floors, triple insulated glass to the extent glass is used to enclose said skyway bridge, and automatic sliding glass doors at both ends of the bridge. The bridge costs in this paragraph are part of the total design and construction costs for the Project.

4. City Assignment of Warranties. City will include a provision in its contract for the construction of the skyway bridge whereby the contractor consents to the assignment of warranties to the owners or assign(s) of the buildings abutting the bridge, and the City upon request shall assign such warranties to them upon approved contract completion without relinquishing its own rights under such warranties; and, if necessary, will cooperate and assist in any prosecution of lawful and proper claims such owners or assign(s) may later assert against the contractor(s) or others arising from faulty design or construction of the skyway bridge. City agrees to assign to First Trust and others upon request all warranties on machinery and equipment, if any, installed in connection with the bridge construction, without relinquishing its own rights under such warranties; and, if necessary, will cooperate and assist in any prosecution of lawful and proper claims which may later be asserted against the vendors or others arising from faulty design or manufacture of such machinery or equipment.

PEDESTRIAN CONCOURSE CONSTRUCTION AND COSTS.

5. Concourse Access. HRA shall at its expense construct and be responsible for pedestrian concourses, and for vertical access facilities to the bridge between concourses at the first and second levels with respect to Block L, and for pedestrian concourse facilities with respect to the Union Depot in accordance with the plans and specifications and with this Agreement. In addition, the General Policy Statement for the Construction of the Saint Paul Skyway System, adopted March 10, 1987, shall apply to the concourse areas within Block L and the Union Depot.

6. Concourse Construction. All costs and expense in connection with the construction and extension of the pedestrian concourse within Block L and the Union Depot shall be borne by HRA. First Trust agrees to provide access to areas within Union Depot necessary to construct the bridge and concourse.

EASEMENTS AND HOURS

7. Grant of Easement and Hours. First Trust and HRA each hereby agree to grant to the City a public easement for the pedestrian skyway system through the Union Depot and Block L, respectively, located in accordance with Exhibits B and C attached hereto. Said easements to be granted shall be in the form

attached hereto as Exhibit A and shall grant to the public the right of use of said pedestrian skyway system through the Union Depot and Block L for purposes of pedestrian ingress, egress, and transit, except for such reasonable police measures regarding open hours and closing all or part of the concourse through their property as the City may, by ordinance, from time to time determine, or regarding public conduct therein as may be prohibited by skyway ordinance, as it may be amended from time to time. It is agreed by all parties that the skyway bridge herein and the new pedestrian concourses provided for in the Union Depot and Block L shall be open for public ingress, egress and transit from 6:00 A.M. to 2:00 A.M., seven days a week, but nothing herein shall prohibit the respective property owners from opening such facilities to extended hours. These hours are subject to revision by mutual agreement and subject to the general power of the City to prescribe System hours by ordinance.

8. (a) Block L Description. The new public easement through Block L shall be in accordance with Exhibit B, generally located as described therein, and affording connections with possible future skyway bridges in Lowertown. (b) Union Depot Description. The new public easement through the Union Depot shall be in accordance with Exhibit C, generally located as described therein, and affording public pedestrian access to the public right-of-way at Fourth Street and to the former train waiting area commonly known as the Union Depot Concourse attached to the Union Depot on the south.

9. Width of Easement. The public easements 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 buildings is such that a width of 12 feet is impossible.

10. Easement Survey. City shall at its expense cause the initial easements to be more particularly described by a registered land surveyor following completed construction of the public concourse access areas. First Trust and HRA have the right to review the completed survey for accuracy and any errors shall be corrected at City expense.

11. Easements Public and Subject to Law. First Trust and HRA agree that the pedestrian concourse within the easement herein described and the adjacent access easements shall be designated as public easements and that all ordinances of the City which by force of law are applicable to the System shall govern.

12. Waiver of Share in Damages. The City hereby waives any right it may have to share in an award of damages in the event that a public body acquires all or any part of the aforesaid Union Depot by condemnation or under the threat of condemnation. Said

waiver applies to the easements through the properties but not to the skyway bridge or its end portions within respective air rights easements.

13. Ownership of Bridge. It is agreed by and between the parties hereto that the skyway bridge between buildings shall at all times be owned by the City, 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 public generally.

OPERATION, MAINTENANCE AND REPAIR

14. City Transfer of Plans, Drawings, Etc. City shall transfer to First Trust and HRA copies of all plans, specifications, drawings, operating manuals, written warranties, etc., and any other documents necessary to or useful in the maintenance, repair and operation of Project facilities and the electrical, drainage, and HVAC utilities in and serving the skyway bridge.

15. Scope of Maintenance; Approval of Modifications. First Trust and HRA further agree to provide the necessary repair, maintenance and operation of the skyway bridge and its integral parts, including electrical, drainage and initial HVAC facilities in and serving the skyway bridge, at their sole expense, without cost to the City. Such maintenance shall be to a reasonable standard of safety and cleanliness and 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. Such bridge or a part thereof may be temporarily closed to the extent reasonably required to make such repairs or maintenance. Except for those repairs and replacements which are (1) routine, (2) the result of normal wear and tear, or (3) necessitated by an emergency requiring rapid action, City shall be furnished with both preliminary and final plans and specifications for all additions, alterations, or repairs and replacements to the skyway bridge or support structures, which plans and specifications shall be subject to their reasonable and timely approval or disapproval before commencement of the work contemplated therein. Lack of action on the part of the City to approve or disapprove such plans and specifications, whether preliminary or final, within 30 calendar days following receipt of such plans and specifications shall be deemed approval.

16. First Trust and HRA Agreement to Maintain. First Trust and HRA shall enter into a separate written agreement for sharing

all maintenance, operation and repair costs and responsibilities for said skyway bridge, its integral parts and related equipment.

17. Maintenance of the Concourse and Carpet. HRA hereby agrees to provide all repairs and maintenance to maintain its pedestrian concourse in Block L to a reasonable standard of safety and cleanliness and to provide operating costs for said pedestrian concourse; and similarly First Trust so agrees with respect to the new pedestrian concourse on or within Union Depot. First Trust and HRA may temporarily close all or a part of the concourse within their property to the extent reasonably necessary to make such repairs or maintenance. Except for those repairs and replacements which are (1) routine, (2) the result of normal wear and tear, or (3) necessitated by an emergency requiring rapid action, City shall be furnished with both preliminary and final plans and specifications for all additions, or repairs and replacements to the pedestrian concourse, which plans and specifications shall be subject to their reasonable and timely approval or disapproval before commencement of work contemplated therein. Lack of action on the part of the City to approve or disapprove such plans and specifications, whether preliminary or final, within 30 calendar days after receipt of such plans and specifications shall be deemed approval. If First Trust or HRA use or install carpet or other less durable flooring material for concourse corridors, such carpet shall be replaced with new carpet or other material matching as closely as possible the original in quality at such intervals as may be determined jointly by the City and HRA, and by City with First Trust for their respective corridors, such new carpet or other material to be submitted to City for its review and approval, which approval shall not be unreasonably withheld.

18. Failure to Maintain, Remedies. If First Trust and HRA fail to adequately maintain, repair and operate the said skyway bridge or any of them fail to adequately maintain, repair and operate the pedestrian concourse areas through its respective properties to a reasonable standard of safety and cleanliness within 30 calendar days after receipt by the defaulting party or parties of written demand from the City specifying the actions to be taken, the City may undertake said reasonable and necessary maintenance, repair and operating tasks, and the cost 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 defaulting party(ies) as a local improvement in the manner provided by law. Notwithstanding the foregoing, if the condition which prompts the 30 day notice by the City cannot reasonably be remedied within 30 calendar days, then the 30 day period shall be extended by the City to such time as may be reasonable for curing the condition.

19. Advertising; Signage. 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 purpose except to the extent permitted by Section 140.08 of the St. Paul Legislative Code as amended.

SURETY BONDS AND INSURANCE

20. \$200,000 Surety Bond; Contractor's Insurance. First Trust and HRA shall together furnish and maintain a surety bond in the amount of \$200,000.00 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 against all expenses and liability on account of all costs, claims, suits and judgments arising out of or connected with the maintenance, operation, 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 approved by the City Attorney and shall have such surety as shall be approved by the Director of Finance & Management Services for the City. The cost of such bond shall be shared by First Trust and HRA in accordance with their separate agreement. The City shall procure from the general contractor and provide to the parties upon request, documentation evidencing that the general contractor is maintaining, throughout the entire period of construction and erection of the skyway bridge, Project 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, specifications, General Conditions, and Special Conditions of the construction contract.

21. Skyway Hazard, Liability Insurance Cost Shared. Insurance required by paragraph 23 hereunder for hazard and liability for the skyway bridge shall be a maintenance cost to be assumed by First Trust and HRA and shall be shared in accordance with the separate agreement for the sharing of operating, maintenance and repair costs that First Trust and HRA shall enter into as provided herein.

22. Concourse Hazard, Liability Insurance. Insurance required hereunder for hazard and liability for the areas designated as easements for access and the pedestrian concourse shall be a maintenance cost to be assumed respectively by First Trust and HRA for the portions of the pedestrian concourse located within their property.

23. Amount of Insurance. First Trust and HRA shall furnish and maintain public liability and casualty insurance coverage for the skyway bridge, and each shall do so as to liability insurance for its portion of the pedestrian concourse, with a duly licensed insurance company, wherein the City shall be designated as an additional insured; 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, \$600,000.00 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

24. Approval, Cost of Signs. The location of directional or other signs that may be installed in the pedestrian concourse herein shall be determined by the City. The City shall pay the initial cost of such signs. The cost of installing, including electrical connections and mounting hardware (pendants, or ceiling channel, and support above ceiling), shall be considered part of the cost of construction of the concourse, the liability for the payment of which shall be governed by paragraphs 5 and 6 herein above. The cost of operating, maintaining and repairing the directional signs shall be borne by the parties on whose properties such signs are located. If the location of the pedestrian concourse public easement is changed, the said signs shall be moved accordingly, and the cost of moving and reinstalling signs to a new easement area shall be borne by the City, unless the change has occurred at the request or by the action of the party on whose property said signs are located, in which event such party shall pay all costs. If the sign moving requires a change in the sign face, the changes shall be made in a manner consistent with the graphic design system established for skyway signs, and the cost of such change shall be borne as provided in the immediately preceding sentence.

BINDING OBLIGATIONS

25. Subject to City Codes. The parties agree that in the construction, maintenance, repair and operation of the pedestrian concourses, they shall be bound by all City Codes and ordinances governing the System, insofar as they are applicable by force of law.

26. Successors and Assigns Bound. 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 that part herein is vacated or abandoned in the manner permitted by law, or terminated in accordance with the Grant of Easement.

27. First Trust and HRA Agreements Not Affected. It is understood that this Agreement does not govern the relationships and agreements by and between First Trust and HRA, themselves to each other, other than the requirements of paragraphs 20 through 23 above.

28. Agreement Survives Conveyance, Is Not Merged. This Agreement shall survive conveyance and delivery of the Grant of Easement provided for herein and shall not be considered merged therein.

29. Owners Retain Property Rights; Obligations Conveyed. 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 form 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 the owner (seller) contained in this Agreement thereafter to be performed; provided that owner's successor fully and without limitation in writing assumes all duties, responsibilities, 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.

30. Effective Date of Obligations - Skyway. Seven (7) calendar days after the issuance of the Written Notice of Final Inspection by the City, and its furnishing to First Trust and HRA the obligations and duties contained in paragraphs 20 and 23 herein above, as to said skyway bridge, shall become operative. All other obligations and duties are effective upon the date of execution of this Agreement.

31. Effective Date of Obligations - Concourses. Upon substantial completion of the pedestrian concourse, City shall give written notice of such completion to First Trust and HRA. Seven (7) days thereafter the obligations and duties contained in paragraphs 20 and 23 herein above, as to said pedestrian concourses, shall become operative. All other

obligations and duties are effective upon the date of execution of this Agreement.

32. Notices - Address. Any notice to the parties hereunder shall be considered sufficiently delivered if mailed, by registered or certified mail, postage prepaid, as follows:

a. To: City of Saint Paul
Thomas Eggum, Director
Department of Public Works
Sixth Floor, City Hall Annex
25 West Fourth Street
St. Paul, Minnesota 55102

and

HRA/City of Saint Paul, Minnesota
Robert V. Sprague, Executive Director
13th Floor, City Hall Annex
25 West Fourth Street
St. Paul, Minnesota 55102

and

City of Saint Paul
Richard Gehrman, Director
Department of Finance and
Management Services
Room 234, City Hall
St. Paul, Minnesota 55102

b. To: First Trust National Association
Corporate Trust Administration
First Trust Center
P.O. Box 64111
St. Paul, Minnesota 55164-0111
Attn: Mr. Timothy Sandell
Assistant Vice President

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

SAVINGS CLAUSE

33. Skyway Policy Pertinent. The General Policy Statement for the Construction of the Saint Paul Skyway System, adopted March 10, 1987, attached hereto as Exhibit E, (including any later amendments) is hereby incorporated into this Agreement and its terms shall be binding as to the bridge and concourse areas constructed pursuant to this Agreement. In the event any provision

of the General Policy Statement conflicts or is inconsistent with this Agreement, this Agreement shall supercede and be controlling.

APPROVED AS TO FORM

CITY OF SAINT PAUL

By _____
Its Mayor

By _____
Its Director, Department
of Planning and Economic
Development

By _____
Its Director, Department
of Finance and Management
Services

By _____
Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 199_, by JAMES SCHEIBEL, Mayor of the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 199_, by ROBERT V. SPRAGUE, Director, Department 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.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 199_, by RICHARD GEHRMAN, 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.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 199_, by MOLLY O'ROURKE, City Clerk of the CITY OF SAINT PAUL, a municipal corporation of the State of Minnesota, on behalf of the City of Saint Paul.

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

By _____
Its

By _____
Its

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this _____ day of _____, 199_, before me, a notary public in and for said county, appeared _____ and _____, who executed the foregoing Agreement on behalf of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a public body corporate and politic, and acknowledged that the said Agreement was signed on behalf of said Authority.

Notary Public

FIRST TRUST NATIONAL ASSOCIATION

By _____
Its

By _____
Its

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this _____ day of _____, 199_, before me, a Notary Public within and for said County, appeared _____ and _____, who duly being sworn, did say they are the _____ and _____ of First Trust National Association, a national banking association, and that said instrument was signed by authority of its _____, and said _____ and _____ acknowledged that said instrument was the free act and deed of said corporation.

**SHARED FACILITIES
OPERATING AGREEMENT**

DATE:

**AMONG: HOUSING AND REDEVELOPMENT AUTHORITY
OF THE CITY OF SAINT PAUL, MINNESOTA**

a public body corporate and politic
of the State of Minnesota ("HRA")

AND: TWIN CITIES PUBLIC TELEVISION, INC.,
a Minnesota non-profit corporation ("KTCA")

AND: THE UNITED WAY OF THE SAINT PAUL AREA, INC.,
a Minnesota not-for-profit corporation ("United Way")

HRA, KTCA AND UNITED WAY HEREBY STIPULATE THAT:

1. HRA is the owner of the property known as the Lowertown Municipal Parking Ramp described on Exhibit A attached hereto. ("Ramp Parcel")
2. KTCA is the owner of the property known as the Minnesota Telecenter described on Exhibit B attached hereto. ("KTCA Parcel")
3. United Way is the owner of property known as the Community Services Building described on Exhibit C attached hereto. ("Development Parcel")
4. HRA is the owner of the property known as the Office Parcel (L-2) described on Exhibit D attached hereto. ("Office Parcel")
5. All the above described properties are subject to a Declaration of Easements, Covenants, and Restrictions dated October 30, 1986, (the "Declaration") attached hereto as Exhibit E, which, among other things, provides for the joint use of certain common areas and shared facilities (the "Shared Facilities") as more fully described therein, including a below grade service area and access drives (the "Shared Service Area"), a pedestrian concourse (as initially constructed and as it may later be extended) (the "Concourse Parcel"), a skyway corridor located on the second level of the Minnesota Telecenter, and one or more skyway pedestrian bridges (the "Skyways")
6. The Declaration provides that there be an Operating Agreement among all owners prescribing the procedures for operation of the Shared Facilities, determining the joint services which are to be shared, and determining the equitable allocation among the owners of the joint operating and maintenance costs.

THEREFORE, HRA, KTCA AND UNITED WAY agree as follows:

1. Operation and Maintenance.

(a) HRA shall provide heat, ventilation, air conditioning, lighting and electrical power for the Concourse Parcel.

(b) HRA shall provide ventilation, lighting and electrical power for the Shared Service Area.

(c) KTCA shall operate, repair, and replace the systems, facilities and equipment necessary for the operation of the Concourse Parcel and the Shared Service Area, and shall be responsible for all janitorial services and structural repairs and replacements necessary therefore.

(d) Operation and maintenance services for the skyway pedestrian bridge connecting over Fourth Street will be provided by others under the terms of a separate Skyway Operating Agreement attached hereto as Exhibit F.

(e) The assignment of responsibilities under this Section, and under Section 2. following, is intended to be reviewed periodically by the parties to this Agreement. Additional details of the administration of the joint services are included in Attachment #1 hereto.

2. Insurance. KTCA shall maintain:

(a) comprehensive general public liability insurance with contractual liability coverage insuring HRA, KTCA, United Way and the City of Saint Paul from all claims, demands or actions for injury or death or property damage on or about the Shared Facilities and in amounts as may from time to time be agreed among HRA, KTCA and United Way, but in no event less than \$5,000,000 combined single limit;

(b) property damage insurance covering the Shared Facilities against all hazards covered by the so-called "all-risk" form of policy in amounts as may from time to time be agreed among HRA, KTCA and United Way, but in no event less than full replacement cost of these facilities;

(c) such other insurance as shall be determined among HRA, KTCA and United Way from time to time.

All insurance shall not be subject to cancellation or reduction in coverage except after at least 10 days' notice to each of the insured.

3. Allocation of Costs. The costs reasonably incurred by each party in providing the services under Section 1 and procuring the insurance under Section 2 shall be allocated as follows:

			Shared
	<u>Skyway(s)</u>	<u>Concourse</u>	<u>Service Area</u>
Ramp Parcel	25%	25%	0%
Office Parcel	25%	25%	0% (Until Developed)
KTCA Parcel	25%	25%	60%
Development Parcel	25%	25%	40%

Such costs shall include a management overhead charge equal to 5% of the actual out-of-pocket expenses incurred, and shall be determined by standard accounting practices with allocations and accruals consistent with the chart of accounts of the Building Owners and Manager's Associations International or other similar organization. With respect to the Shared Service Area, said costs shall be shared equitably by the KTCA Parcel and the Development Parcel in proportion to use. At such time as the Office Parcel is developed, the Office Parcel shall commence its contribution to said costs of the Shared Service Area on the same proportional basis. All capital costs incurred subsequent to initial construction of the Shared Facilities and for all systems, facilities and equipment exclusively serving them shall be included, but no capital costs shall be included for systems, facilities or equipment which serve other improvements as well, except as follows:

(a) With respect to the expansion of KTCA dedicated parking and storage space within the service area of the Shared Facilities, the provisions of Section 11.09 of the Contract for Sale of Land for Private Redevelopment dated December 18, 1985 as Amended August 15, 1986 between HRA and KTCA shall govern;

(b) With respect to the potential future expansion of the pedestrian concourse, or the construction of additional pedestrian skyway bridges connecting the block, neither HRA, KTCA nor United Way is obligated to contribute to the initial capital costs of this construction under the terms of this Agreement. However, if these additional Shared Facilities are constructed, HRA, KTCA, and United Way, their successors or assigns, shall be obligated to pay the costs of operation, maintenance, and insurance as provided in the Operating Agreement and this Section 3.

4. Payment.

(a) Prior to the beginning of each calendar year, each party providing services under Section 1 or procuring insurance under Section 2 ("Provider") shall compute and deliver to the others ("Users") a bona fide estimate of the costs therefore. The Users shall pay to the Provider such User's allocated portion of such cost in equal monthly installments on or before the first day of each month of such

calendar year. As soon as practicable after the end of each calendar year, the Provider shall deliver to the Users a written statement ("Annual Statement") setting out in reasonable detail the actual cost thereof and certified to be correct by an officer or general partner of the Provider. If the aggregate of the monthly installments actually paid by a User differs from the amount determined from the Annual Statement, such User shall pay or the Provider shall refund the difference, as the case may be.

(b) If during any calendar year any major repairs or replacements to the shared Facilities are required which are not budgeted as part of the costs under Section 4 (a), the Users shall pay to the Provider such User's allocated portion of such cost within 10 days of invoice therefore. Except in an emergency, the Provider shall furnish the Users an estimate of the cost prior to commencing such work.

5. Examination of Records. Each User may at its cost examine the Provider's books relating to costs incurred in connection with the Shared Facilities if requested within 180 days after receipt of the Annual Statement of such cost. Examination shall be made during normal business hours with reasonable prior notice. Each Annual Statement shall be considered as final and binding on the Users except to the extent of any written exception delivered to the Provider within 210 days of the giving of such Annual Statement. If the Provider and Users cannot agree on the actual cost within 30 days after delivery of the exception, the dispute will be referred to a mutually selected certified public accountant, whose decision shall be final.

6. Effect of Sale. HRA and each successor owner of the Ramp Parcel and the Office Parcel shall be liable only for such obligations of HRA under this Agreement as accrue during its respective period of ownership so long as the successor owner of each parcel assumes such obligations in writing. KTCA and each successor owner of the KTCA Parcel shall be liable only for such obligations of KTCA under this Agreement as accrue during its respective period of ownership so long as the successor owner of the KTCA Parcel assumes such obligations in writing. United Way and each successor owner of the Development Parcel shall be liable only for such obligations of United Way under this Agreement as accrue during its respective period of ownership so long as the successor owner of the Development Parcel assumes such obligations in writing.

7. Notices. Any notice or other communication under this agreement shall be deemed given when deposited in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed:

if to HRA: 13th Floor, City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102
Attn: Executive Director

5040

if to KTCA: 172 East Fourth Street
Saint Paul, Minnesota 55101
Attn: Building Operations Manager

if to United Way: 166 E. Fourth Street
Saint Paul, Minnesota 55101
Attn: Property Manager

8. General. This Agreement is binding on and inures to the benefit of HRA, KTCA, and United Way and their respective heirs, successors and assigns. This Agreement is their sole agreement respecting operations of the Shared Facilities and is intended to supercede and amend any conflicting provisions of previous bi-party agreements. It shall be governed by and construed under the terms of the Declaration and under the laws of Minnesota. It may not be amended or modified except by a writing signed by the party to be bound.

IN WITNESS OF THIS AGREEMENT, it has been executed as of the date set out at its head.

Approved as to Form:

Assistant City Attorney

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

By _____

Its _____

By _____

Its _____

By _____

Its _____

TWIN CITIES PUBLIC TELEVISION, INC.

By _____

Its _____

THE UNITED WAY OF THE SAINT PAUL AREA, INC.

By _____

Its _____

Ramp Parcel:

All that certain parcel or parcels of land in the City of Saint Paul, County of Ramsey, State of Minnesota, more particularly described as:

TRACT 1: (Abstract)

That part of Lots 1 and 2, Block 4, Capital Centre No. 1 and that part of vacated Jackson Street as opened and widened over part of Lots 7 and 8, Block 27, City of St. Paul (St. Paul Proper) lying below elevation 67.5 feet (City of St. Paul Datum) and lying within the following described lines: Commencing at the most Northerly corner of said Lot 1; thence South 37 degrees, 00 minutes East 252.32 feet to the Northwesternly line of Kellogg Blvd.; thence South 53 degrees 13 minutes 40 seconds West along said Northwesternly line of Kellogg Blvd. 106.16 feet to the point of beginning of the line to be described; thence North 37 degrees 00 minutes West 168.15 feet; thence South 53 degrees 00 minutes West 247.16 feet; thence South 36 degrees 55 minutes 20 seconds East, 167.17 feet to the point of interesection with the Northwesternly line of Kellogg Blvd.; thence North 53 degrees 13 minutes 40 Seconds East along said Northwesternly line of Kellogg Blvd. to the point of beginning.

TRACT 2: (Abstract)

That part of Lot 1, Block 4, Capital Centre No. 1, together with that part of Lot 13, Block 27, City of St. Paul (St. Paul Proper) and that part of vacated Sibley Street below elevation 55.50 (City of St. Paul Datum) and lying within the following described lines: Commencing at the most Northerly corner of said Lot 1; thence South 37 degrees 00 minutes East, 83.75 feet to the point of beginning of the line to be described; thence continuing South 37 degrees 00 minutes East, 168.57 feet to the Northwesternly line of Kellogg Blvd.; thence South 53 degrees 13 minutes 40 seconds West along said Northwesternly line of Kellogg Blvd. 106.16 feet; thence North 37 degrees 00 minutes West, 168.15 feet; thence North 53 degrees 00 minutes East 106.16 feet to the point of beginning, except therefrom the following described property:

That part of Lot 1, Block 4, Capital Centre No. 1, contained in that part formerly described as that part of Lots 11 and 12, Block 27, City of St. Paul, Capital of Minnesota (Commonly known as St. Paul Proper), particularly described as follows: Commencing at a point on the northerly line of Kellogg Boulevard 94.92 feet southwesterly of the original westerly line of Sibley Street; thence northwesterly 107.41 feet to a point on the southerly line of the alley in said Block 94.56 feet southwesterly of the original westerly line of Sibley Street (measured along the southerly line of said alley); thence southwesterly along the southerly line of said alley 22 feet; thence southeasterly to a point on the northerly line of Kellogg Boulevard 22 feet southwesterly of the point of beginning; thence northeasterly along the northerly line of Kellogg

TRACT 3: (Torrens)

That part of Lot 1, Block 4, Capital Centre No. 1, contained in that part formerly described as that part of Lots 11 and 12, Block 27, City of St. Paul, Capital of Minnesota (Commonly known as St. Paul Proper), particularly described as follows:

Commencing at a point on the northerly line of Kellogg Boulevard 94.92 feet southwesterly of the original westerly line of Sibley Street; thence northwesterly 107.41 feet to a point on the southerly line of the alley in said Block 94.56 feet southwesterly of the original westerly line of Sibley Street (measured along the southerly line of said alley); thence southwesterly along the southerly line of said alley 22 feet; thence southeasterly to a point on the northerly line of Kellogg Boulevard 22 feet southwesterly of the point of beginning; thence northeasterly along the northerly line of Kellogg Boulevard 22 feet to the point of beginning,

lying below elevation 55.50 (City of St. Paul Datum).

All that certain parcel or parcels of land in the City of Saint Paul, County of Ramsey, State of Minnesota, more particularly described as:

TRACT 1:

That portion of Lot 1, Block 4, Capital Centre No. 1 lying within the following described lines: Commencing at the most Northerly corner of said Lot 1; thence S 37 degrees 00 minutes E 83.67 feet; thence S 53 degrees 00 minutes W 106.16 feet to the point of beginning of the line to be described; thence continuing S 53 degrees 00 minutes W 56.84 feet; thence Northwesterly to a point in the Northwesterly line of said Lot 1 distant 163.00 feet from the most Northerly corner thereof; thence N 53 degrees 24 minutes 20 seconds E along the Northwesterly line of said Lot 1 distance 56.84 feet; thence Southeasterly to the point of beginning.

Subject to easements of record.

TRACT 2:

That part of Lots 1 and 2, Block 4, Capital Centre No. 1 and that part of vacated Jackson Street as opened over part of Lots 7 and 8, Block 27, City of St. Paul (St. Paul Proper) lying above elevation 67.5 feet (City of St. Paul Datum) and lying within the following described lines: Commencing at the most Northerly corner of said Lot 1; thence S 37 Degrees 00 minutes E 252.32 feet to the Northwesterly line of Kellogg Blvd.; thence S 53 degrees 13 minutes 40 seconds W along said Northwesterly line of Kellogg Blvd. 106.16 feet to the point of beginning of the line to be described; thence N 37 degrees 00 minutes W 168.23 feet; thence S 53 degrees 00 minutes W 247.16 feet; thence S 36 degrees 55 minutes 20 seconds E 167.25 feet to the point of intersection with the Northwesterly line of Kellogg Blvd.; thence N 53 degrees 13 minutes 40 seconds E along said Northwesterly line of Kellogg Blvd. to the point of beginning.

Subject to easements of record. Ramsey County Minnesota.

All that certain parcel or parcels of land in the City of Saint Paul, County of Ramsey, State of Minnesota, more particularly described as follows:

TRACT 1:

Those portions of Lots 1 and 2, Block 4, Capital Centre No. 1, and vacated Jackson Street, lying within the following described line: Commencing at the most Northerly corner of said Lot 1; thence South 53 degrees 24 minutes 20 seconds West, 163.00 feet to the point of beginning of the line to be described; thence South 37 degrees 00 minutes East, 84.83 feet; thence South 53 degrees 00 minutes West, 190.32 feet; thence North 36 degrees 55 minutes 20 seconds West, 86.17 feet; thence North 53 degrees 24 minutes 20 seconds East to the point of beginning.

All that certain parcel or parcels of land in the City of Saint Paul, County of Ramsey, State of Minnesota, more particularly described as:

TRACT 1:

That portion of Lot one (1), Block four (4), Capital Centre No. 1, and that part of vacated Sibley Street, lying within the following described lines:

Beginning at the most Northerly corner of said Lot one (1); thence South 37 degrees, 00 minutes East, 83.67 feet; thence South 53 degrees, 00 minutes West, 88.16 feet; thence North 37 degrees, 00 minutes West, 84.29 feet to a point on the Northwesternly line of said Lot one (1); thence North 53 degrees, 24 minutes, 20 seconds East along said Northwesternly line of said Lot one (1), to the point of beginning.

TRACT 2:

That portion of Lot one (1), Block four (4), Capital Centre No. 1, and that part of Lot thirteen (13), Block twenty seven (27), City of Saint Paul (St. Paul Proper), and that part of vacated Sibley Street, above elevation 55.50 (City of St. Paul Datum) and lying within the following described lines:

Commencing at the most Northerly corner of said Lot one (1), Block four (4), Capital Centre No. 1; thence South 37 degrees, 00 minutes East, 83.67 feet to the point of beginning of the lines to be described; thence continuing South 37 degrees, 00 minutes East, 168.65 feet to the Northwesternly line of Kellogg Blvd.; thence South 53 degrees, 13 minutes, 40 seconds West, 105.92 feet; thence North 36 degrees, 48 minutes, 28 seconds West, 107.62 feet; thence North 53 degrees, 23 minutes, 20 seconds West, 17.40 feet; thence North 37 degrees, 00 minutes West, 60.73 feet; thence North 53 degrees, 00 minutes East, to the point of beginning, excepting therefrom the following described Registered Property:

That part of Lot 1, Block 4, Capital Centre No. 1, contained in that part formerly described as that part of Lots 11 and 12, Block 27, City of St. Paul, Capital of Minnesota (Commonly known as St. Paul Proper), particularly described as follows: Commencing at a point on the northerly line of Kellogg Boulevard 94.92 feet southwesterly of the original westerly line of Sibley Street; thence northwesterly 107.41 feet to a point on the southerly line of the alley in said Block 94.56 feet southwesterly of the original westerly line of Sibley Street (measured along the southerly line of said alley); thence southwesterly along the southerly line of said alley 22 feet; thence southeasterly to a point on the northerly line of Kellogg Boulevard 22 feet southwesterly of the point of beginning; thence northeasterly along the northerly line of Kellogg Boulevard 22 feet to the point of beginning. Subject to Party-Wall Agreements recorded in Books C Miscellaneous Records on Page 14 and in K of Miscellaneous Records on Page 472 and Book 111 of Deeds on Page 487 in the office of the Register of Deeds of Ramsey County, Minnesota.

TRACT 3:

That part of Lot 1, Block 4, Capital Centre No. 1, contained in that part formerly described as that part of Lots 11 and 12, Block 27, City of St. Paul, Capital of Minnesota (Commonly known as St. Paul Proper), particularly described as follows: Commencing at a point on the northerly line of Kellogg Boulevard 94.92 feet southwesterly of the original westerly line of Sibley Street; thence northwesterly 107.41 feet to a point on the southerly line of the alley in said Block 94.56 feet southwesterly of the original westerly line of Sibley Street (measured along the southerly line of said alley); thence southwesterly along the southerly line of said alley 22 feet; thence southeasterly to a point on the northerly line of Kellogg Boulevard 22 feet southwesterly of the point of beginning; thence northeasterly along the northerly line of Kellogg Boulevard 22 feet to the point of beginning. Subject to Party-Wall Agreements recorded in Books C Miscellaneous Records on Page 14 and in K of Miscellaneous Records on Page 472 and Book 111 of Deeds on Page 487 in the office of the Register of Deeds of Ramsey County, Minnesota, lying above elevation 55.50 (City of St. Paul Datum).

EXHIBIT "E"

BLOCK L
DECLARATION
DATED 10-30-86

SHARED FACILITIES
OPERATING AGREEMENT
ATTACHMENT #1

This attachment is intended to provide additional details of the administration of joint services.

Accounts and Payments

KTCA has agreed to serve as the administrative agent for collection of amounts due for joint operating and maintenance expenses, and for payment of these costs to service providers. As set out in Section 3. of the Agreement, operating costs for the skyway(s) and Concourse are allocated 25% each to owners of each of the four parcels, and operating costs for the service area are allocated to the actual users in proportion to use (KTCA and United Way have initially agreed to an allocation of 60% to KTCA, 40% to United Way, with apportionment subject to review and change by the parties as actual circumstances may warrant).

Consequently, KTCA will maintain two separate accounts, a Concourse Account and a Service Area Account, for recording of expenses and receipts, for payment of expenses, and for billing purposes. Sufficient account balances shall be maintained so that payments may be made promptly as they are due.

A consolidated bill shall be sent monthly to all parcel owners, itemizing all expenses incurred during the preceding month, allocating these expenses as provided in the Agreement, and indicating the amounts due from each parcel owner. Amounts due shall be paid within 10 days of billing. KTCA may apply an administrative charge equal to 5% of each month's expenses to cover its services. *KTCA will issue a quarterly operating statement*

NSP Electric and District Energy Charges

Electric charges for the service area, and electric and district energy charges for the concourse, will be determined by sub-meter readings from the parking ramp services. The ramp operator shall take these readings, calculate the usage and appreciable charges for the service area and concourse, and shall bill KTCA for the amounts due.

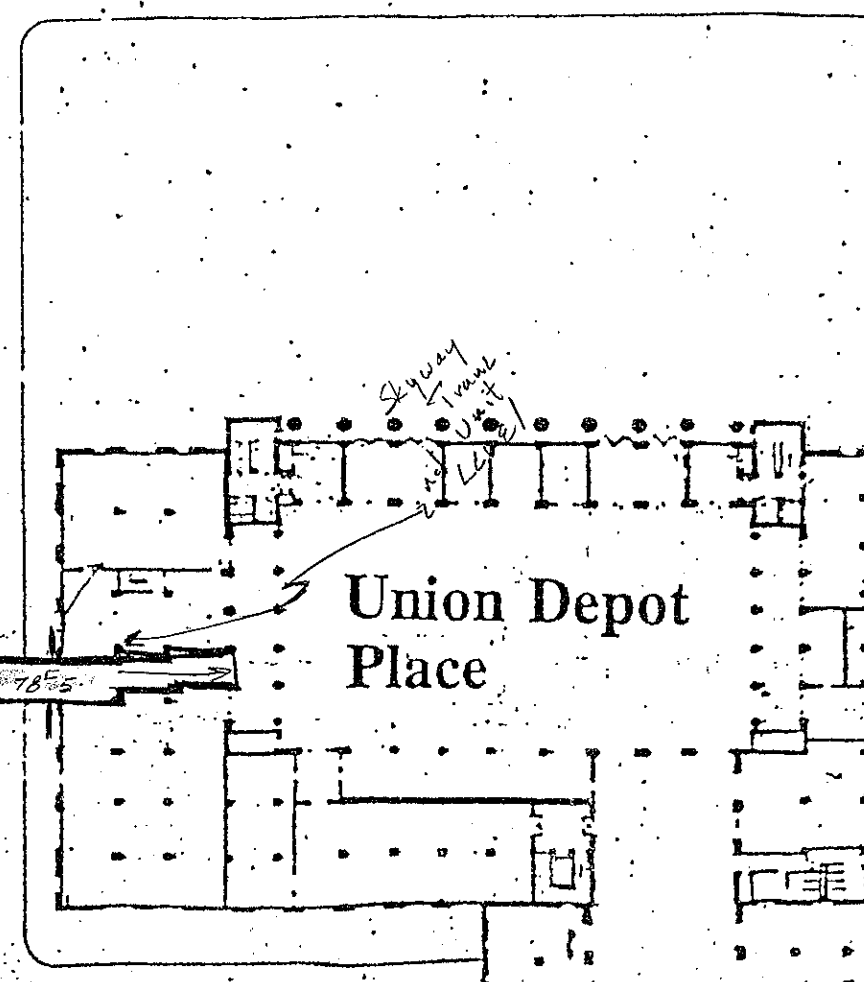
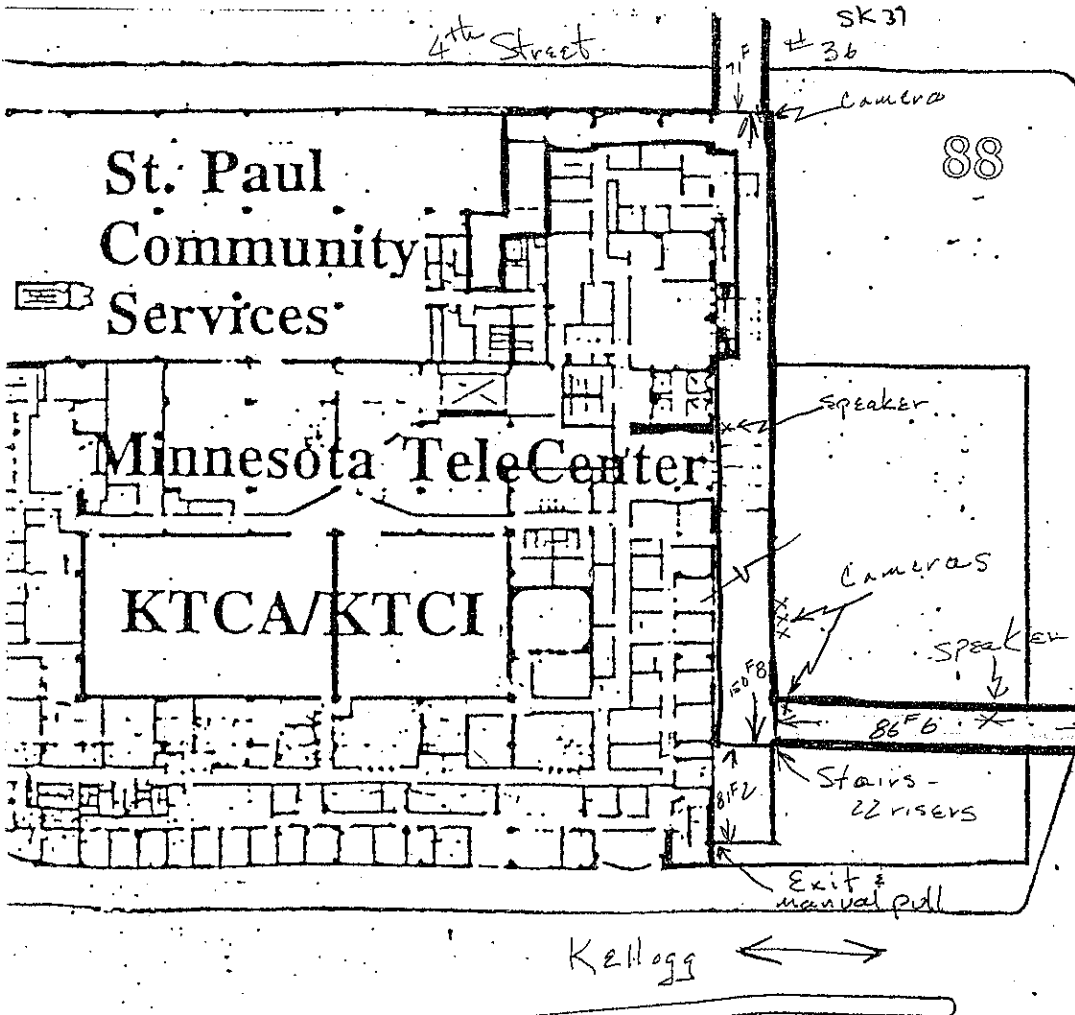
Snow Removal

Snow removal from sidewalks surrounding the entire block and from the easterly service access drive to Sibley Street shall be contracted for by the ramp operator. Costs of snow removal shall be paid 25% by the ramp operator, and 25% each by HRA, KTCA, and United Way.

Skyway(s)

Operation and maintenance expenses for the currently completed skyway bridge across Fourth Street have been allocated under a Skyway Operating Agreement, (Exhibit F). Amounts due from the Block L complex under this Agreement are payable 25% each by each of the four parcel owners. Operating expenses of future skyways shall also be allocated by dividing the share of such expenses attributed to the complex equally among the four parcel owners.

dianec/st-att1



Union Depot Place