

[Reserved for Recording Information]

PARKING LOT LEASE AGREEMENT

THIS PARKING LOT LEASE AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2012 by and among the persons and entities listed on the signature pages of this Agreement (individually referred to as an “Owner” and collectively as the “Owners”) and the City of Saint Paul, Minnesota (“City”).

WITNESSETH:

WHEREAS, the Owners are the record owners of those certain parcels of real property located in Ramsey County, Minnesota, legally described in **Exhibit A** attached hereto, and described in the survey in **Exhibit B** attached hereto, and (collectively the parcels are referred to as the “Property”); and

WHEREAS, the Property is in the block bounded by University Avenue, Sherburne Avenue, Fry Street, and Snelling Avenue; and

WHEREAS, to help mitigate the loss of significant parking on University Avenue when light rail transit is constructed in 2011 and 2012, the City desires to lease the Property from the Owners and to make improvements to the Property (“Improvements”) for use as a public parking lot; and

WHEREAS, the owners of parcels 7, 8, 9, and 10 described in **Exhibit A** attached hereto together with certain adjacent owners (the “Incorporators”) agree to form an association (the “Association”) that will be responsible for the operation, maintenance, repair and replacement of the Improvements, and the City agrees to contract with the Association to do so, and to equitably assess all of the operating costs on all the benefitted property owners under the provisions of Minnesota Statute 459.14, whether or not they lease land to the City for developing a public parking lot; and

WHEREAS, the Owners collectively desire to lease the Property to the City for a public parking lot on the terms contained in this Agreement, and the persons and entities that have a mortgage or other interest in the Property have consented to this Agreement:

NOW, THEREFORE, in consideration of the sums described in **Exhibit B** and other good and valuable consideration, the receipt of which is hereby acknowledged by the Owners and the mutual covenants contained herein, the parties do hereby agree as follows:

1. **Lease of Property; Term.** The Owners hereby demise and lease to the City and the City hereby takes from and leases from the Owners (the “Lease”) for the purpose of a public parking lot and pedestrian and vehicular ingress and egress, that part of the Property owned by each of them and described in the survey attached hereto as **Exhibit B** and legally described in **Exhibit A** attached hereto (the “Lease Area”). The term of the Lease shall begin on _____, 2012 and terminate on _____, 2027 The City may terminate this Lease upon sixty (60) days written notice to the Owners.

2. **Lease of Property: Rent.** The City agrees to pay as rent to the owners of the parcels legally described in **Exhibit A** attached hereto, those amounts described in **Exhibit B** attached hereto (the “Rent”). In the event of early termination of this Lease, Rent will be prorated to the date of termination

3. **No Interference with Lease.** The Owners agree that no obstructions which would prevent, restrict or otherwise hinder the reasonable use of the parking lot and passage of pedestrians or vehicles over any portion of the Lease Area shall be erected, condoned or permitted to endure, nor shall any other conduct, passive or affirmative, be permitted which would in any manner restrict the City’s right to fully utilize the Lease Area for the purposes permitted herein.

4. **Improvements.** The City is permitted to make improvements to the Lease Area for use as a parking lot at any time during the term of this Agreement (“Improvements”) including without limitation, grading, excavating, stormwater management, planting of trees, shrubs and other landscaping, sidewalks, pay-parking meters and kiosks, curbing, signage, pavers, retaining walls, lighting, security cameras, striping, and centralizing refuse and recycling facilities, as set forth in **Exhibit C** attached hereto. The City will pay for the cost of the initial Improvements from its own funds and these amounts will not be assessed against the benefitted property owners. The costs of any subsequent Improvements, and any costs necessary to return the Property to a useable state at the termination of the Lease, shall be assessed against the benefitted property owners. The Lease Area will be open to the public for parking according to certain time and permit limits which the Association will determine and the City will enforce. The City shall be responsible for obtaining all required permits to make the Improvements.

5. **Association; Operation, Maintenance and Repair; Taxes.** The Association will be responsible for the operation, maintenance, repair, and replacement of the Improvements and Lease Area, in accordance with applicable laws, ordinances, and regulations, to the end that the parking lot shall be kept in good condition and repair. This includes, without limiting the generality of the foregoing: sweeping and trash removal, snow and ice removal, patching and repairing of potholes, and from time to time, resealing, restriping, and resurfacing the pavement as may be reasonably necessary or advisable. The City and Association will enter into a parking operation and management agreement for the Property (the “Operation and

Management Agreement”). The operating costs of the Lease Area, including all Rent, will be assessed against the benefitted property owners. and the assessments shall be used by the Association to pay such costs. On or before May 31st of each year, the Association will annually prepare and submit to the City for its review and approval, an annual operating budget for the Property. Upon termination of this Lease, the Improvements may be left in place by the City and shall become the property of the Owners to the extent the improvements are made on their own parcel. To the extent that the City does incur some costs to return the Property to a state useable by the owners upon termination of this Lease, such costs will be assessed against the benefitted property owners. The Owners shall be responsible for paying all real and personal property taxes on their own parcels.

6. Duration: Binding Effect. The terms, conditions and covenants set forth in this Agreement shall run with the land and shall inure to the benefit of and be enforceable by the Owners of the Property and the City, and his, her, or its respective heirs, representatives, successors and assigns.

7. Amendment. No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the parties to be bound.

8. Severability. If any provision of this Agreement is held to be unenforceable or void, such provision shall be deemed to be severable and shall in no way affect the validity of the remaining terms of this Agreement.

9. Governing Law, Venue. This Agreement shall be governed by the laws of the state of Minnesota. All actions involving the interpretation or enforcement of this Agreement shall be venued in Ramsey County district court.

10. Notices. Any notice required or permitted hereunder shall be given by (i) personal delivery upon an authorized representative of a party hereto, or (ii) United States registered or certified mail, return receipt requested, postage prepaid, or (iii) facsimile copy followed by mailed notice, or (iv) a nationally recognized, reputable overnight courier, in each case properly addressed as follows:

If to City:

City of Saint Paul, Minnesota

Dept. of Planning and Economic Development
Attn: Project Services Manager, Fax: 651-228-3314
25 West 4th Street, Suite 1100 City Hall Annex
St. Paul, Minnesota 55102

If to Owners:

For Parcels #1 through #4, 1608-18 Sherburne:

Beth Mahalla, Fax 651-634-6301
American Bank of St Paul
1060 Dakota Drive
Mendota Heights, MN 55120

For Parcel #5, 1622 Sherburne:

James S. and Nancy Z Hartung
1622 Sherburne Ave.
Saint Paul, MN 55114

For Parcel #6, 1630-1632 Sherburne:

Jim Daly, 651.214.9265
10550 Dale Rd
Woodbury MN 55129

For Parcels #7 and # 8, 1625-31 University:

Karen L Desens
678 Terrace Dr
Roseville MN 55113-2149

And:

Jordan D. Anderson, 651.644.1773
Valid Ventures
1623 University Ave. West
Saint Paul, MN 55104

For Parcel #9, 1619 University:

Elisa Nafstad, 651.603.8887
c/o Salon Elise
1619 University Ave. W.
Saint Paul, MN 55114

For Parcel #10, 1613 University:

Bill K. Nicklow, 763-545-3419
c/o BKN Properties LLC
130 Oregon Avenue S
Minneapolis, MN 55426

Notices shall be deemed effective on the earlier of the date of receipt or the date of deposit, as aforesaid; provided, however, that if notice is given by deposit, the time for response to any notice by the other party shall commence to run one business day after any such deposit. Any party may change his or its address for the service of notice by giving notice of such change ten (10) days prior to the effective date of such change.

11. Recording. The Owners and City agree that this Agreement shall be recorded against all effected parcels of real property constituting the Property at the City's cost.

12. No Partnership. Nothing contained in this Agreement and no action by the parties hereto shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent, partnership, joint venture or any association between the Owners and City, except for the association to be created by the Owners.

13. Entire Agreement. The parties acknowledge that this Agreement and its exhibits represent the full and entire agreement of the parties relating to the use of the Property. This Agreement supersedes and replaces any prior agreements, written or oral.

14. Title. The Owners represent and warrant that they own in fee simple their parcels of the Property legally described in **Exhibit A** and shown on a survey in **Exhibit B** attached hereto, and there are no liens, mortgages, purchase agreements, options, leases, rights of first refusal or any other lien, interest or encumbrance against their parcels except as set forth on the Consents to Parking Lot Lease Agreement which are on the signature pages of this Agreement.

15. 1622 Sherburne Avenue Early Termination: Permission is hereby given for the existing or future owner of 1622 Sherburne Avenue to terminate their portion of this lease before its expiration, upon 90 days written notice to the City, and at their own expense to install a garage for their property accessible off the alley provided that they restore the Improvements to the adjacent properties to a functional and attractive condition.

16. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument. A facsimile, photocopy or pdf signature of the signature page is permitted and is as legally effective as an original signature.

IN WITNESS WHEREOF, the Owners and City have caused this Agreement to be executed as of the day and year first above written.

Owner of Parcel #5
1622 Sherburne Avenue

By: _____
 James S. Hartung

By: _____
 Nancy Z. Hartung

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by James S. Hartung and Nancy Z. Hartung, husband and wife.

Notary Public

Owner of Parcel #6
1630-1632 Sherburne Avenue

1630 SHERBURNE, LLC

By: _____
James K. Daly

Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by James K. Daly, the _____ of 1630 Sherburne, LLC, the owner of 1630-1632 Sherburne Avenue, on behalf of 1630 Sherburne, LLC.

Notary Public

Consent to Parking Lot Lease Agreement for Parcel #6
1630-1632 Sherburne Avenue
By Mortgage or Other Interest Holder in the Property

The undersigned, _____, a _____ of Unity Bank, being the holder of a certain mortgage dated April 19, 2011, and filed of record May 2, 2011 in the Office of the Registrar of Titles in and for Ramsey County, Minnesota, as Document No. 2141087 hereby consents to the foregoing Parking Lot Lease Agreement and agrees that its interest in the Property is subordinate and junior in all respects to the lease granted to the City.

UNITY BANK

By: _____

Its: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ___ day of _____, 2012 by _____, the _____ of Unity Bank a limited liability company organized under the laws of Minnesota on behalf of Unity Bank.

Notary Public

Owner of Parcels #7 and #8
1625-1631 University Avenue West

By: _____
 Jordan Anderson, individually

VALID VENTURES, LLC

By: _____
 Jordan Anderson

Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Jordan D. Anderson and Valid Ventures, a Minnesota Limited Liability Company, the purchaser under a contract for deed dated June 30, 2006 and filed of record as document number 3983543 in the Office of the County Recorder and filed of record as document number 1980564 with the Registrar of Titles in and for Ramsey County, Minnesota of 1625-1631 University Avenue West.

Notary Public

Consent to Parking Lot Lease Agreement for Parcels #7 and #8
1625-1631 University Avenue West
By Mortgage or Other Interest Holder in the Property

The undersigned, Karen L. Desens, a single person, being the fee owner of 1625-1631 University Avenue West, and the seller of a certain contract for deed dated June 30, 2006 and filed of record as document number 3983543 in the Office of the County Recorder and filed of record as document number 1980564 with the Registrar of Titles in and for Ramsey County, Minnesota, hereby consents to the foregoing Parking Lot Lease Agreement and agrees that its interest in the Property is subordinate and junior in all respects to the lease granted to the City.

By: _____
Karen L. Desens

STATE OF MINNESOTA)
)ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012 by Karen L. Desens, a single person.

Notary Public

Owner of Parcel # 9
1619 University Avenue West

By: _____
Elisa Nafstad

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Elisa Nafstad, a single person.

Notary Public

THE CITY OF SAINT PAUL, MINNESOTA

By: _____
Christopher B. Coleman, its Mayor

By: _____
Todd P. Hurley, its Director, Office of Financial Services

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Christopher B. Coleman and Todd P. Hurley, respectively the Mayor and Director of Office of Financial Services, of the City of Saint Paul, Minnesota, a public body, for and on behalf of said public body.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney Office
Room 400, City Hall
15 W. Kellogg Boulevard
Saint Paul, Minnesota 55102

EXHIBIT A:
Legal Descriptions of Property
Shown in Sunde Land Surveying Survey September 21, 2011

Note: Parcel designations are for reference only and do not constitute part of the legal descriptions.

Parcel #1: (Abstract)

The south 37 feet of Lots 6 and 7, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel #2: (Abstract)

The south 37 feet of Lot 8, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel #3: (Torrens certificate #175121)

The south 37 feet of Lot 9, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel #4: (Torrens certificate #175157)

The south 37 feet of Lot 10, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel #5: (Torrens certificate #348492)

The south 6.27 feet of Lot 11, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel #6: (Torrens certificate #584647)

The south 6.27 feet of Lot 12, Block 4 of BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Together with the south 22.37 feet of Lot 13, said Block 4.

Also together with that part of Lot 14, sold Block 4, described as beginning at the southeast corner of sold Lot 14; thence on an assumed bearing of South 89 degrees 45 minutes 03 seconds West, along the south line of said Lot 14, a distance of 8.79 feet; thence North 00 degrees 40 minutes 08 seconds West a distance of 20.29 feet; thence North 89 degrees 55 minutes 43 seconds East a distance of 5.50 feet; thence North 00 degrees 04 minutes 17 seconds West a distance of 2.13 feet; thence North 89 degrees 45 minutes 03 seconds East a distance of 3.39 feet to the east line of said Lot 14; thence south along said east line of Lot 14 to the point of beginning.

Parcel #7: (Abstract)

The east 6.86 feet of the north 64.86 feet of Lot 16, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota.

Together with that part of Lot 17, said Block 4, lying north of a line described as commencing at the northwest corner of said Lot 17; thence on an assumed bearing of South 00 degrees 21 minutes 15 seconds East, along the West line of said Lot 17, a distance of 64.86 feet to the point of beginning of the line to be described; thence North 89 degrees 45 minutes 03 seconds East a distance of 31.28 feet; thence on a bearing of North a distance of 14.77 feet; thence on a bearing of East a distance of 9.20 feet; thence on a bearing of South a distance of 14.73 feet; thence North 89 degrees 45 minutes 03 seconds East a distance of 10.41 feet to the east line of said Lot 17 and said line there terminating.

Parcel #8: (Torrens certificate #561496)

That part of Lot 18, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota, lying north and west of a line described as commencing at the northwest corner of said Lot 18; thence on an assumed bearing of South 00 degrees 21 minutes 15 seconds East, along the west line of said Lot 18, a distance of 64.86 feet to the point of beginning of the line to be described; thence North 89 degrees 45 minutes 03 seconds East a distance of 24.51 feet; thence on a bearing of North a distance of 10.04 feet; thence on a bearing of East a distance of 15.25 feet; thence North 00 degrees 15 minutes 07 seconds West a distance of 1.69 feet; thence North 89 degrees 44 minutes 53 seconds East a distance of 0.18 feet to the east line of said Lot 18 and said line there terminating.

Parcel #9: (Torrens certificate #556201)

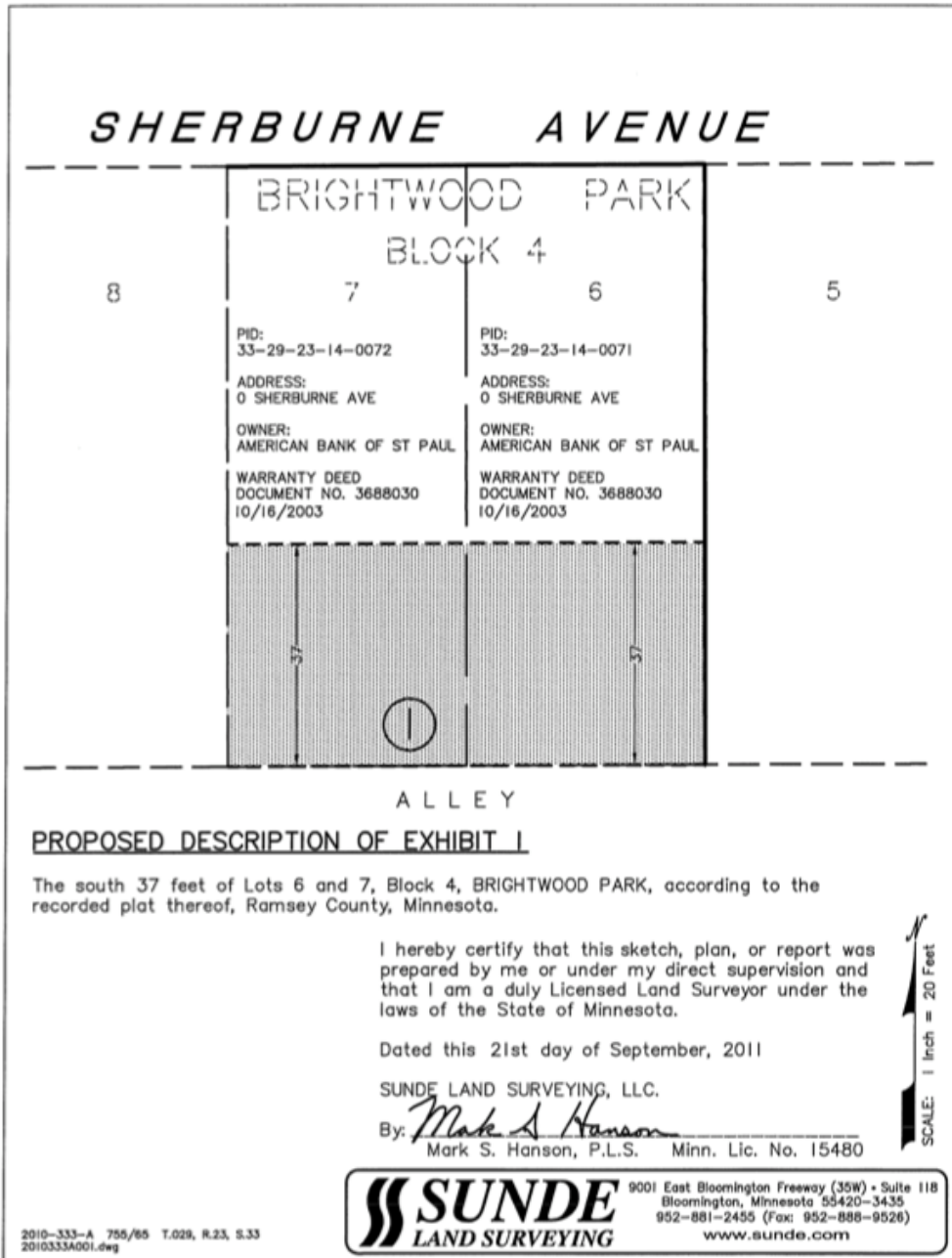
That part of Lots 19 and 20, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota, described as beginning at the northwest corner of said Lot 19; thence on an assumed bearing of South 00 degrees 21 minutes 15 seconds East, along the west line of said Lot 19, a distance of 53.19 feet; thence North 89 degrees 44 minutes 00 seconds East a distance of 33.75 feet; thence South 00 degrees 21 minutes 06 seconds East a distance of 27.43 feet; thence North 89 degrees 38 minutes 45 seconds East a distance of 12.75 feet; thence South 45 degrees 21 minutes 15 seconds East a distance of 6.12 feet; thence South 00 degrees 21 minutes 15 seconds East a distance of 29.98 feet to the south line of said Lot 20; thence east along the south line of said Lot 20 a distance of 9.17 feet to the east line of the west half of said Lot 20; thence north along said east line of the west half of Lot 20 to the north line of said Lot 20; thence west along said north line of Lot 20 and the north line of said lot 19 to the point of beginning.

Parcel #10: (Torrens certificate #570336)

That part of Lots 20 and 21, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota, described as beginning at the northeast corner of said Lot 21; thence west along the north line of said Lots 21 and 20 to the east line of the west half of said Lot 20; thence south along said east line of the west half of Lot 20 to the south line of said Lot 20; thence on an assumed bearing of North 89 degrees 36 minutes 14 seconds East, along said south line of Lot 20 a distance of 13.22 feet; thence north 00 degrees 38 minutes 23 seconds East a distance of 56.10 feet; thence North 89 degrees 24 minutes 40 seconds East a distance of 47.00 feet; thence North 00 degrees 38 minutes 12 seconds West a distance of 44.99 feet; thence North 44 degrees 30 minutes 49 seconds East a distance of 0.39 feet to the east line of said Lot 21; thence north to the point of beginning

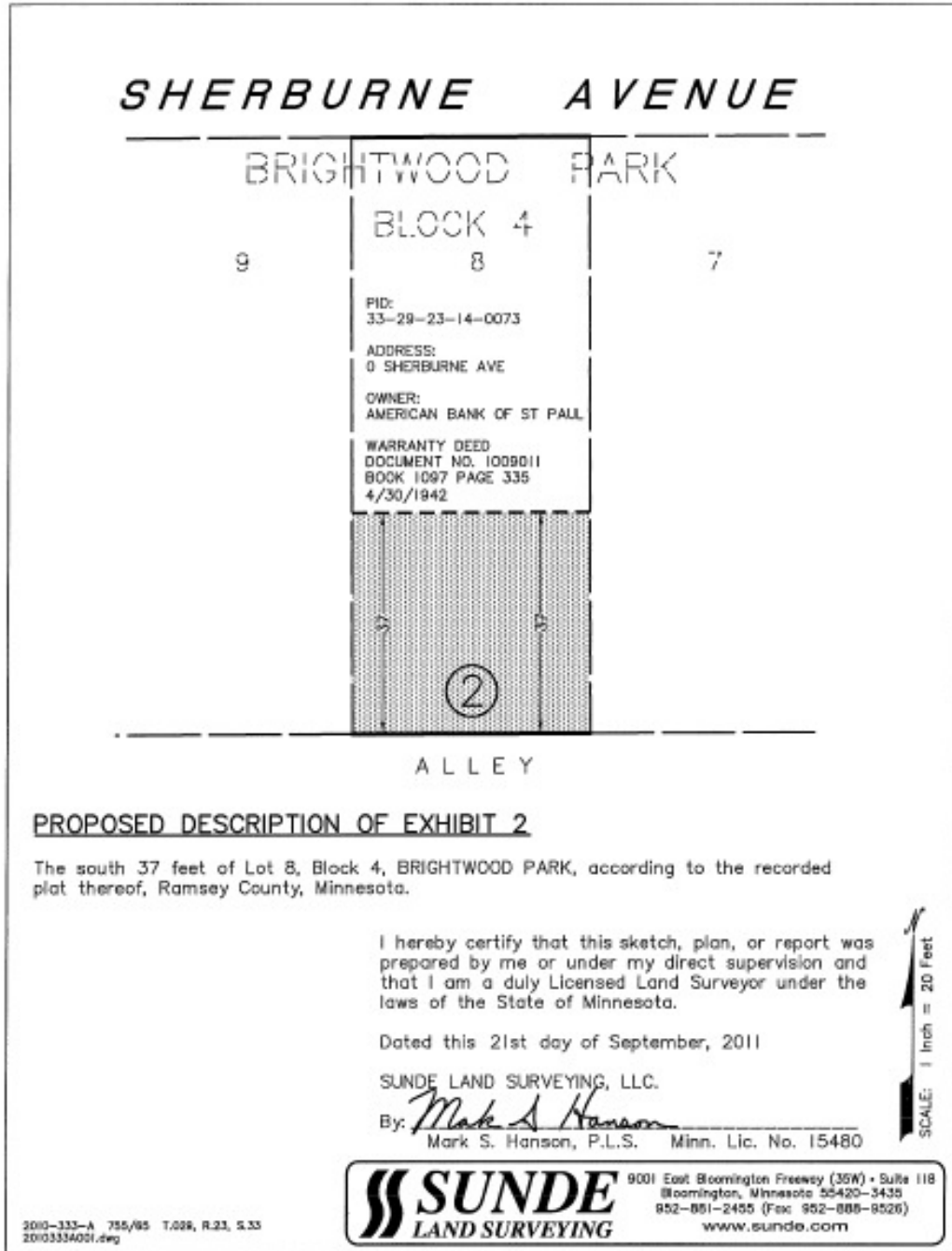
EXHIBIT B
Rent, Survey of Lease Area of Parcel #1
American Bank Employee Parking Lot, 0 Sherburne Avenue, St. Paul, MN

Rent: The Owner leases to the City that portion of the property described as Parcels #1, #2, #3, and #4 below for an amount equal to the rent the Owner is required to pay the operator of the Spruce Tree Center parking ramp for 22 contract parking spaces. As of the date of this Lease Agreement, that amount is \$1,320.00 per month calculated as follows: \$60.00 a month per space times 22 spaces equals \$1,320.00 per month. This amount may increase or decrease over the term of this Lease Agreement depending upon the actual charges the Owner pays for such 22 spaces. The Owner agrees to use its best efforts to keep its contract parking rent to the operator of the Spruce Tree parking ramp as low as possible.



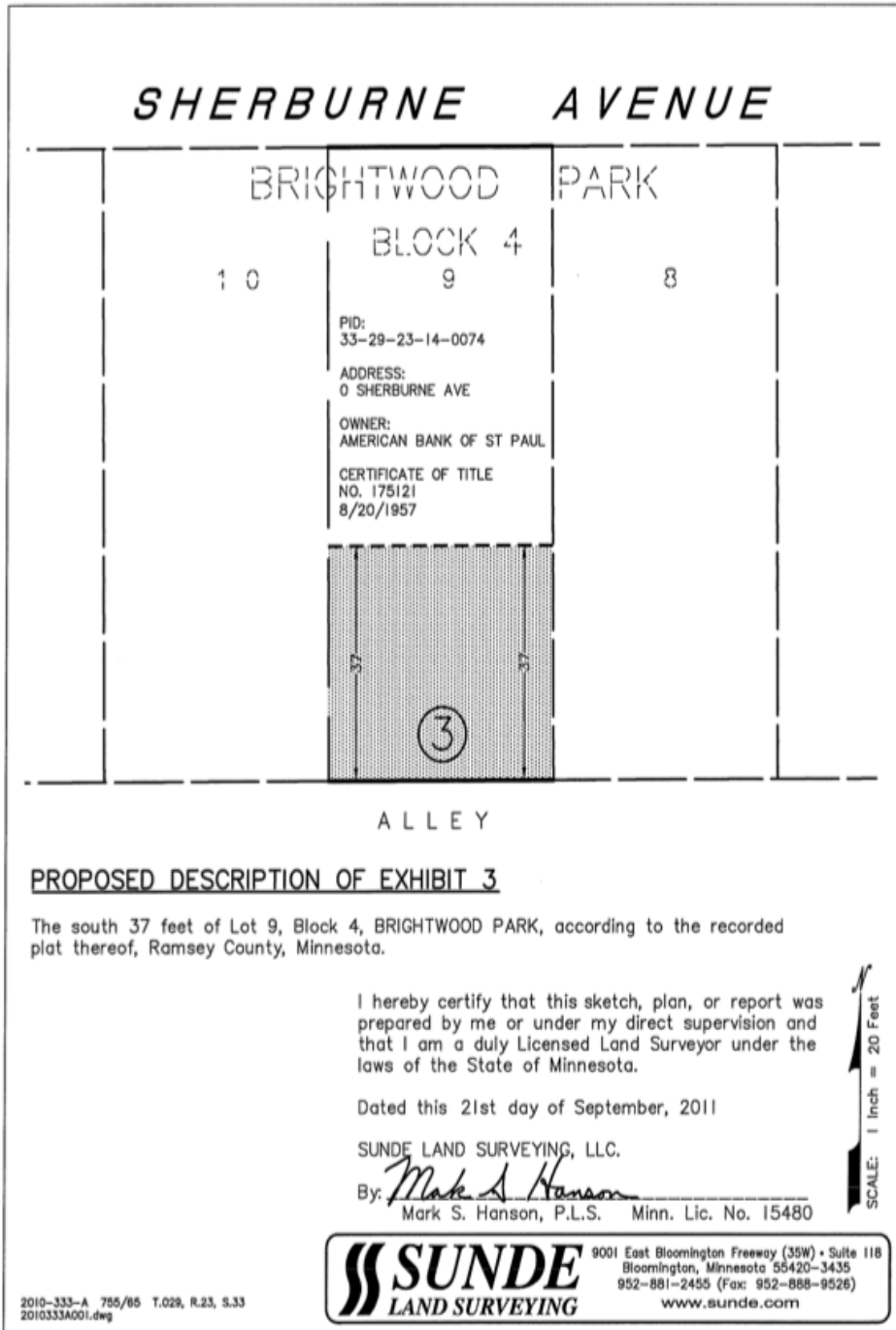
Rent, Survey of Lease Area of Parcel #2
American Bank Employee Parking Lot, 0 Sherburne Avenue, St. Paul, MN

Rent: See Parcel #1 above.



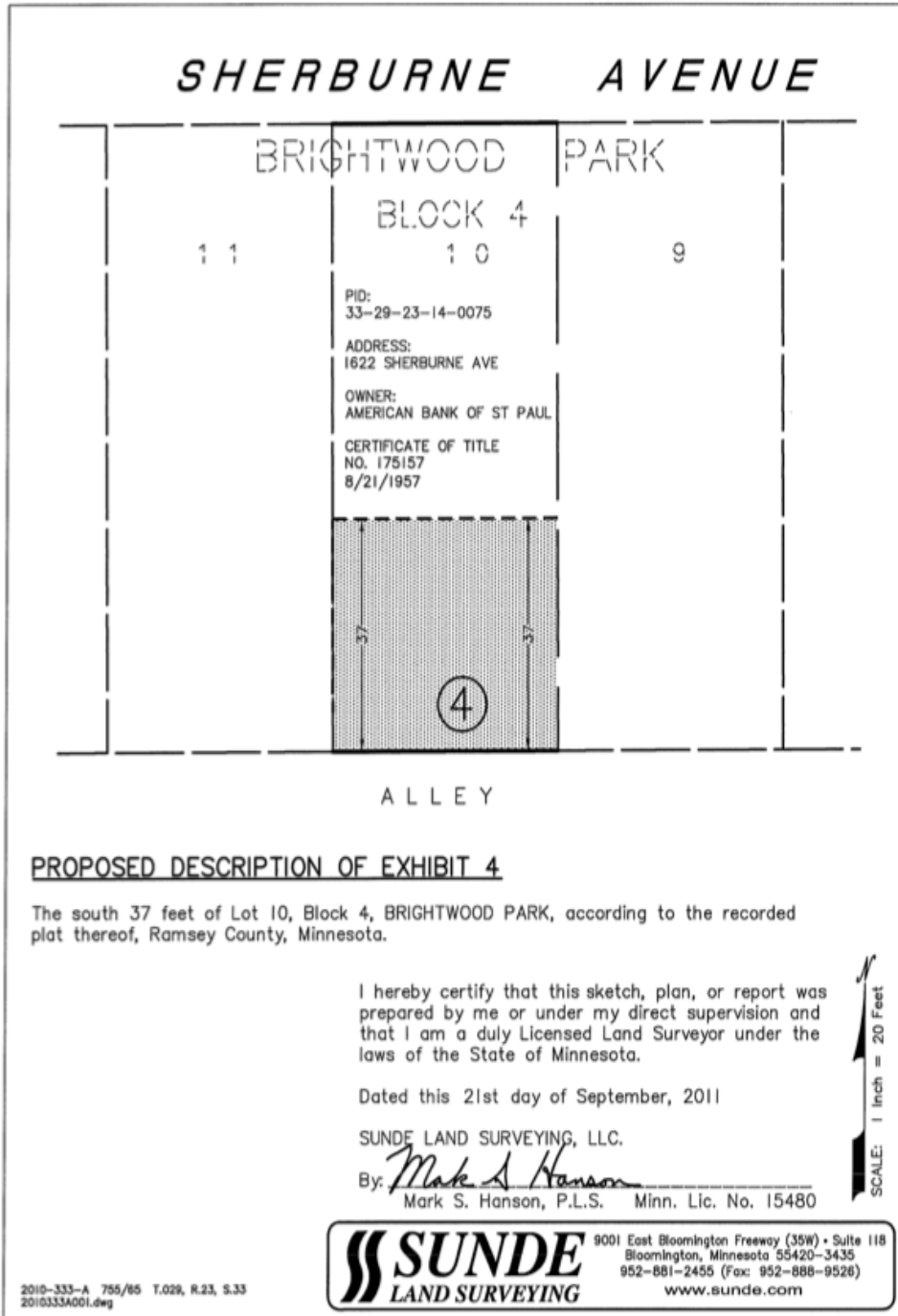
Rent, Survey of Lease Area of Parcel #3
American Bank Employee Parking Lot, 0 Sherburne Avenue, St. Paul, MN

Rent: See Parcel #1 above.



Rent, Survey of Lease Area of Parcel #4
American Bank Employee Parking Lot, 1622 Sherburne Avenue, St. Paul, MN

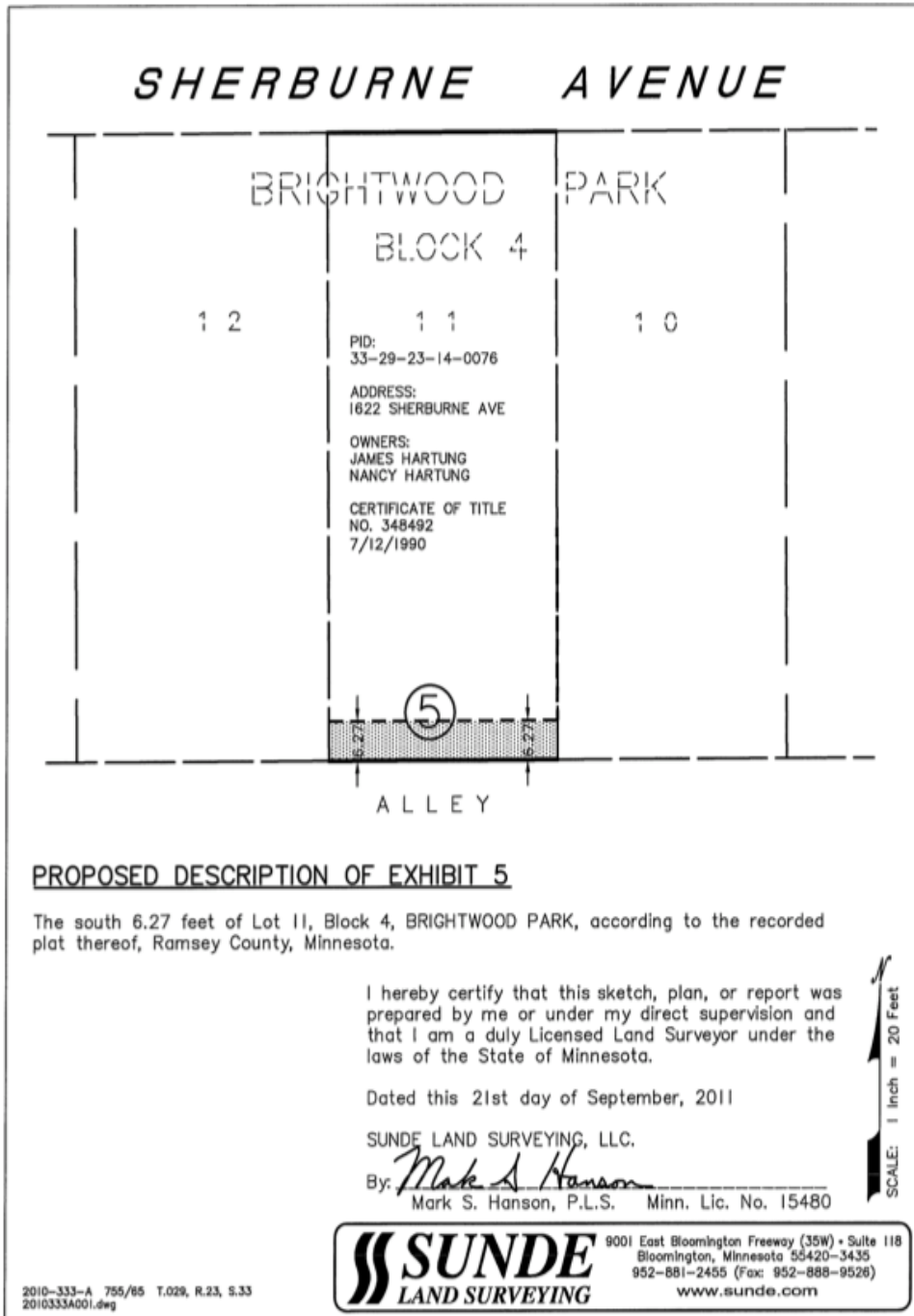
Rent: See Parcel #1 above.



Rent, Survey of Lease Area of Parcel #5

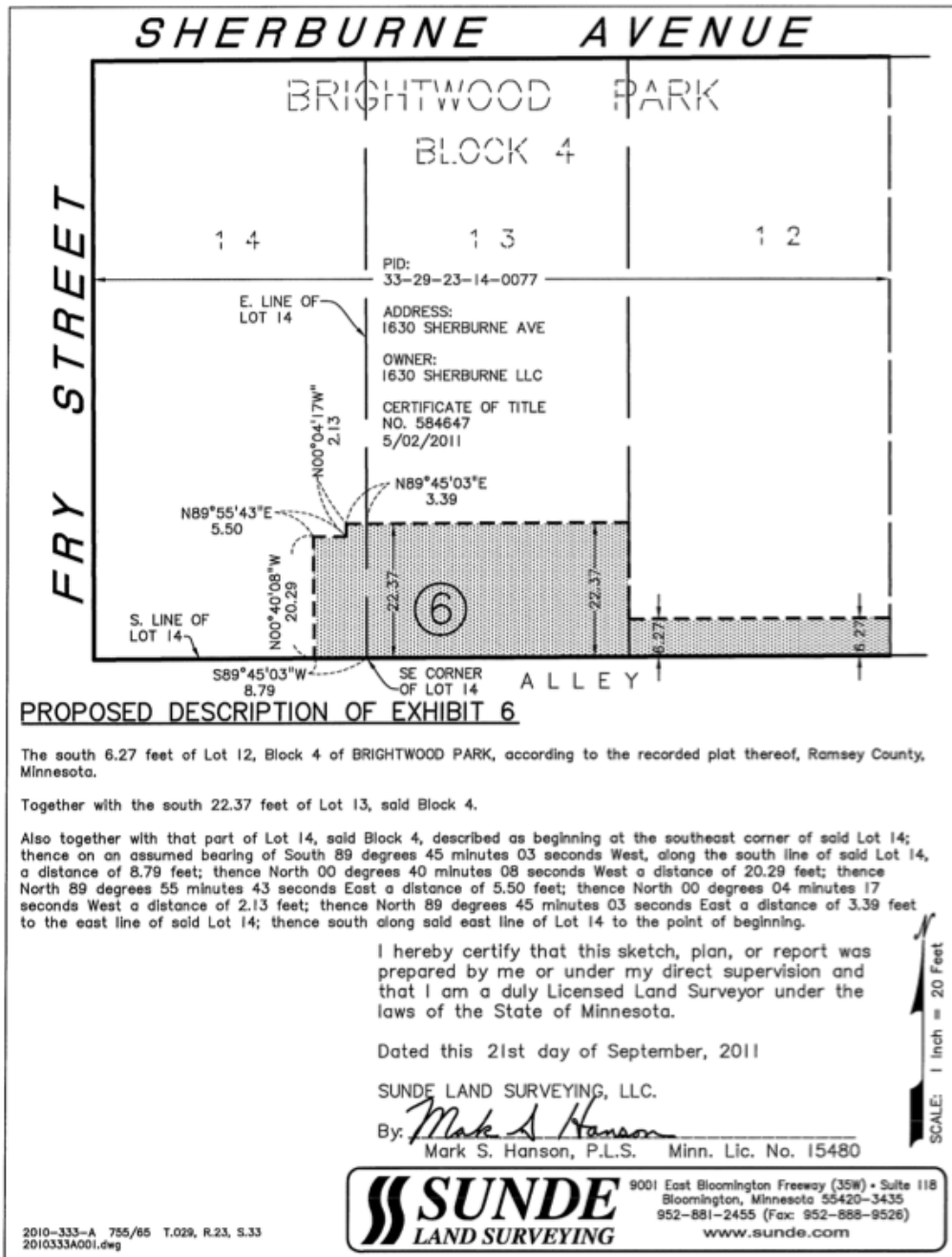
James S. and Nancy Z. Hartung, Residential Duplex, 1622 Sherburne Ave., St.Paul, MN

Rent: The Owner leases that portion of the property described as Parcel #5 below (which comprises $\frac{3}{4}$ of a parking space in area) for the sum of \$45.00 per month as of the date of this Lease Agreement. This is calculated as follows: three-quarters ($\frac{3}{4}$) times \$60.00 per month (the amount charged American Bank for the use of parking spaces in the Spruce Tree parking ramp as described in Parcel #1 above) equals \$45.00 per month. This amount may increase or decrease over the term of this Lease Agreement depending upon the actual charges American Bank pays for its parking spaces in the Spruce Tree parking ramp.



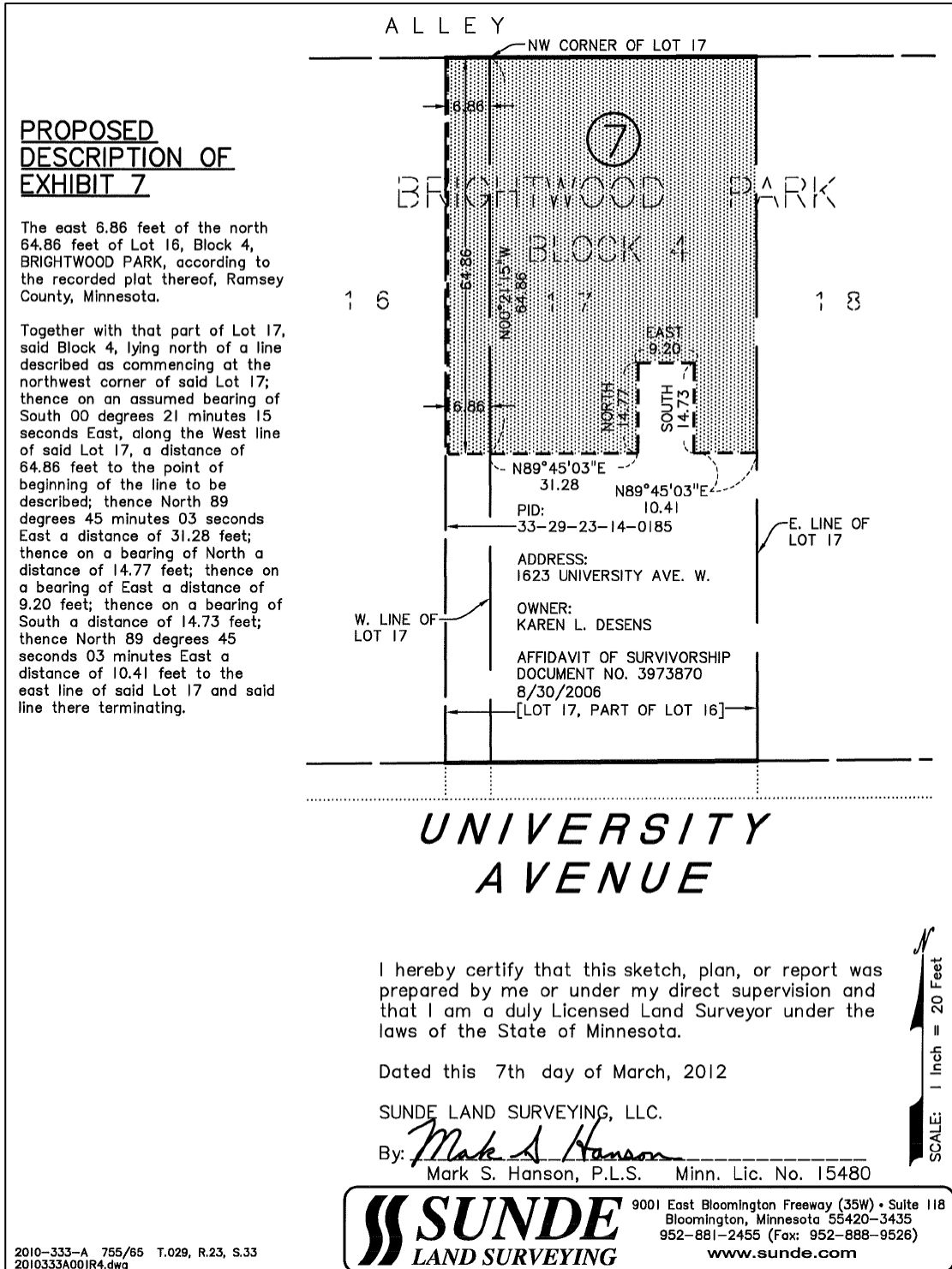
Rent, Survey of Lease Area of Parcel #6
1630 Sherburne, LLC, Apartment Building, 1630-1632 Sherburne Ave., St.Paul, MN

Rent: The Owner leases that portion of the property described as Parcel #6 below (which comprises 4 parking spaces in area) for the sum of \$240.00 per month as of the date of this Lease Agreement. This is calculated as follows: 4 parking spaces times \$60.00 per month per space (the amount charged American Bank for the use of parking spaces in the Spruce Tree parking ramp as described in Parcel #1 above) equals \$240.00 per month. This amount may increase or decrease over the term of this Lease Agreement depending upon the actual charges American Bank pays for its parking spaces in the Spruce Tree parking ramp.



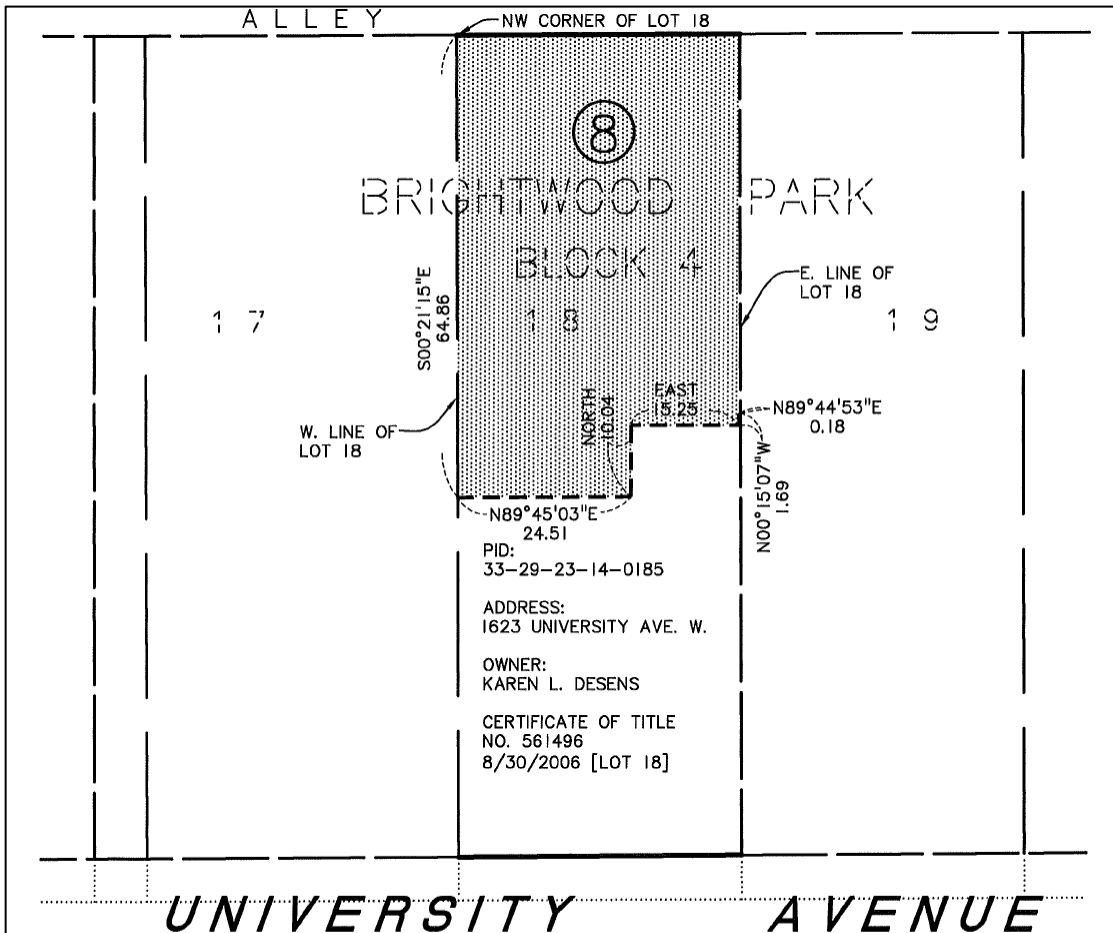
Rent, Survey of Lease Area of Parcel #7
Karen L. Desens, fee owner, and Valid Ventures, LLC, contract owner,
1625-1631 University Avenue W., Saint Paul, MN

Rent: The Owner leases that portion of the property described below not for any rent but in exchange for the capital improvements the Lessee will make to this Property.



Survey of Lease Area of Parcel #8
Karen L. Desens, fee owner, and Valid Ventures, LLC, contract owner,
1625-1631 University Avenue W., Saint Paul, MN

Rent: The Owner leases that portion of the property described below not for any rent but in exchange for the capital improvements the Lessee will make to this Property.



PROPOSED DESCRIPTION OF EXHIBIT 8

That part of Lot 18, Block 4, BRIGHTWOOD PARK, according to the recorded plat thereof, Ramsey County, Minnesota, lying north and west of a line described as commencing at the northwest corner of said Lot 18; thence on an assumed bearing of South 00 degrees 21 minutes 15 seconds East, along the west line of said Lot 18, a distance of 64.86 feet to the point of beginning of the line to be described; thence North 89 degrees 45 minutes 03 seconds East a distance of 24.51 feet; thence on a bearing of North a distance of 10.04 feet; thence on a bearing of East a distance of 15.25 feet; thence North 00 degrees 15 minutes 07 seconds West a distance of 1.69 feet; thence North 89 degrees 44 minutes 53 seconds East a distance of 0.18 feet to the east line of said Lot 18 and said line there terminating.

I hereby certify that this sketch, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 7th day of March, 2012

SUNDE LAND SURVEYING, LLC.

By: *Mark S. Hanson*
 Mark S. Hanson, P.L.S. Minn. Lic. No. 15480

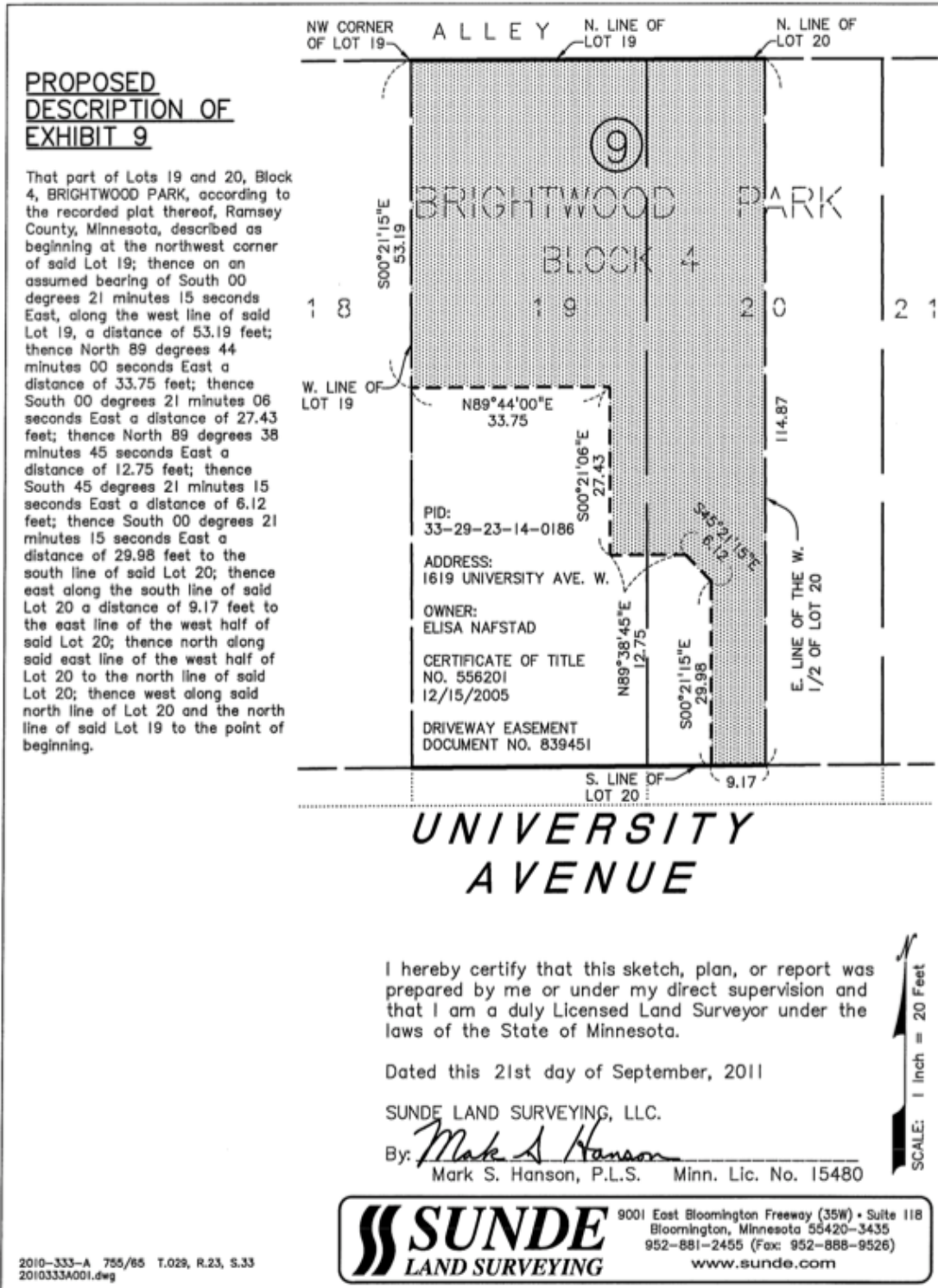
SCALE: 1 inch = 20 Feet

2010-333-A 755/65 T.029, R.23, S.33
 2010333A001R4.dwg

SUNDE LAND SURVEYING 9001 East Bloomington Freeway (35W) • Suite 118
 Bloomington, Minnesota 55420-3435
 952-881-2455 (Fax: 952-888-9526)
 www.sunde.com

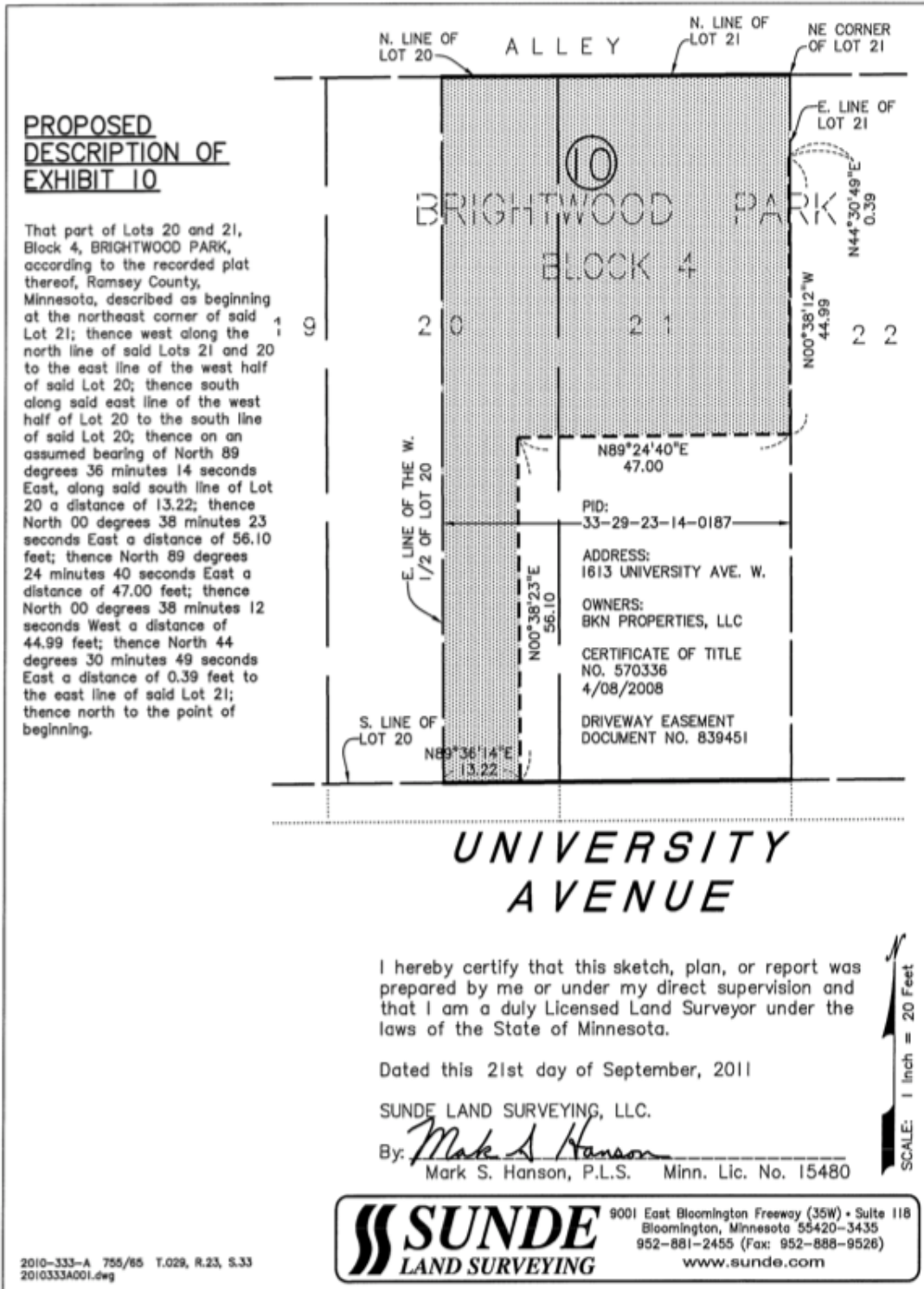
Rent, Survey of Lease Area of Parcel #9
Elisa Nafstad, 1619 University Avenue West, Saint Paul, MN

Rent: The Owner leases that portion of the property described below not for any rent but in exchange for the capital improvements the Lessee will make to this Property.



Rent, Survey of Lease Area of Parcel #10
BKN Properties, LLC, 1613 University Ave. West, St. Paul, MN

Rent: The Owner leases that portion of the property described below not for any rent but in exchange for the capital improvements the Lessee will make to this Property.



Survey of Lease Area of All Parcels

