
SPACE ABOVE THIS LINE FOR RECORDER'S USE

PREPARED BY AND WHEN
RECORDED MAIL TO:
The City of Saint Paul
Office of Financial Services/ Real Estate
1000 City Hall Annex
25 West Fourth Street
Saint Paul, Minnesota 55102

Version: December 11, 2012

FIRE EXIT EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Easement"), is given as of the _____ day of _____, 2012, between **Lowry Building LLC**, a Minnesota Limited Liability Company, and **HLV, LLC**, a Minnesota Limited Liability Company (collectively "Hotel Lowry Owner") and the **CITY OF SAINT PAUL, MINNESOTA**, a municipal corporation under the laws of the State of Minnesota (the "City").

RECITALS

A. The Parties to this Easement are the owners of certain Parcels of real property located in Ramsey County, Minnesota, as follows:

1. The Hotel Lowry Owner is the owner of the real property described on the attached Exhibit A ("Hotel Lowry Parcel") on which is located the "Hotel Lowry";

2. The City is the owner of the real property described on the attached Exhibit B ("City Hall Annex Parcel") on which is located the "City Hall Annex."

B. The individual parcels referred to above are collectively referred to herein as the "Parcels" and, individually, as the case may be, a "Parcel."

C. Each of the Parcels is improved with certain buildings and structures situated thereon as indicated in Recital A, above. Said buildings are collectively referred to herein as the "Buildings" or, individually, as the case may be, a "Building."

D. The Parties have agreed that the City may allow certain pedestrian access over a portion of the City Hall Annex Parcel and Building located thereon for the benefit of the owners, users, and occupants of the Hotel Lowry Parcel.

E. The Parties wish to memorialize certain agreements, understandings, and other matters concerning the above.

NOW, THEREFORE, the Hotel Lowry Owner and the City hereby declare that the easements, covenants, conditions and restrictions hereinafter set forth shall be established over certain portions of the City Hall Annex Parcel for the benefit of the Hotel Lowry Owner.

ARTICLE 1

FIRE EXIT EASEMENT

1.1 Grant of Easement, Termination.

(a) The City hereby grants the Hotel Lowry Owner, for Twenty Four Thousand Five Hundred and 00/100 Dollars (\$24,500.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, a permanent non exclusive easement for emergency fire exit purposes from the Hotel Lowry through a portion of the City Hall Annex (the "Fire Exit Easement"). Payment of the \$24,500.00 shall be made upon execution of this Agreement by certified or cashier's check. Provided however the Hotel Lowry Owner shall receive a refund of the \$24,500.00 for the Fire Exit Easement if all of the following conditions are timely and fully satisfied: (i) Ramsey County has taken possession of space in the Hotel Lowry Parcel under a lease with Hotel Lowry Owner on or before July 1, 2013; (ii) all the boarded up windows of the Hotel Lowry Parcel on Wabasha and Fourth streets are replaced with glass on or before July 1, 2013; and (iii) the restaurant in the southeast corner on the first floor of the Hotel Lowry Parcel is open for business on or before December 31, 2014. If any of the foregoing three conditions are not satisfied, then no refund shall be made by the City.

(b) The City reserves the right to terminate the Fire Exit Easement granted herein upon the occurrence of any of the following events: upon the destruction of the Building on the City Hall Annex Parcel or substantial damage to the Easement Area by fire or other casualty and no reconstruction or repairs are made by the City.. The City may exercise this right of termination by giving written notice of termination to the Hotel Lowry Owner. If the Easement is terminated due to the destruction of the Building on the City Hall Annex Parcel and the building on the Hotel Lowry Parcel remains in place, then the City grants a non exclusive easement to the Hotel Lowry Owner over the City Hall Annex Parcel to the extent necessary to provide emergency access to a public right of way, which easement shall include the right of the Hotel Lowry Owner to have the City construct at the expense of the Hotel Lowry Owner any temporary structure on the City Hall Annex Parcel as may be reasonably necessary to provide such emergency access, and if a new building is later constructed on the City Hall Annex Parcel, then the Easement will be reestablished through such new building and the Hotel Lowry Owner shall pay all costs incurred by the City in removing the temporary structure.

(c) If the Hotel Lowry Owner fails to perform any of its obligations required in this Agreement after receiving thirty (30) days notice of such default thereof by the City, then the Hotel Lowry Owner shall be obligated to pay an annual fee of Five Thousand Dollars (\$5,000.00) for the Fire Exit Easement to City beginning on the 31st day following the notice of default. Payment of the annual fee shall terminate upon a cure of such default.

1.2 **Easement Area.** The location of the Easement area ("Easement Area") is depicted in the diagram attached hereto as Exhibits C1 and C2

1.3 **Covenants.** The City, for itself and its successors and assigns, does covenant with the Hotel Lowry Owner, its successors and assigns, that it is the fee owner of the City Hall Annex Parcel and has good right to grant and convey the Easement herein free of all encumbrances.

ARTICLE 2

CONSTRUCTION, MAINTENANCE AND COSTS

2.1 **Improvements.** The City shall be responsible for the design and construction of all doors and door hardware within the Easement Area, as specified in the Construction Specifications, attached as Exhibit C1 and C2 and D. ("Improvements"). The doors referred herein on Exhibit D and shown on Exhibits C1 and C2 shall comply with all City of Saint Paul Building and Fire Codes as determined by the Department of Safety and Inspections of the City of Saint Paul. The City agrees to commence construction of the Improvements upon receipt of (a) copies of all building permits needed by the Hotel Lowry Owner to construct its intended improvements to the Hotel Lowry Parcel and a copy of the Memorandum of Lease Agreement with Ramsey County, and (b) the cost of the items set forth in Exhibit D. The City shall give notice not less than fifteen (15) days prior to commencement of the improvements.

2.2 **Security Equipment.** The City shall be responsible for the installation of all security equipment within the Easement Area, as specified in the Construction Specifications, attached as Exhibit D ("Security Equipment").

2.3 **Maintenance, Repair and Replacement.** After completion of construction and installation work of the Improvement and Security Equipment, the City shall maintain, repair and replace as needed the Improvements and Security Equipment within the Easement Area, and keep in good condition with the costs paid by the Hotel Lowry Owner as set forth in Section 2.4 below.

2.4 **Costs.** The Hotel Lowry Owner shall be responsible for all costs and expenses associated with the design and construction of the Improvements and installation of the Security Equipment necessary for the Easement, and all maintenance, repair and replacement of same, without contribution from the City. For ongoing maintenance, repair and replacement, the City

shall pay all reasonable costs when initially incurred, and submit to the Hotel Lowry Owner written requests for reimbursement on an annual basis. Payment shall be made by Hotel Lowry Owner to City within 30 days of receipt of requests for reimbursement by City.

ARTICLE 3

GENERAL PROVISIONS

3.1 **Interpretation.** This Easement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially to the preparation of this Easement.

3.2 **Construction.** The headings of the sections and subsections of this Easement are for convenience and reference only and do not form a part hereof, and in no way interpret or construe such sections and subsections. Wherever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

3.3 **Severability.** If any provision of this Easement 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 Easement.

3.4 **Governing Law.** This Easement shall be construed as to both validity and performance and enforced in accordance with and governed by the laws of the State of Minnesota.

3.5 **No Third-Party Benefit.** Nothing in this Easement, express or implied, is intended to confer on any person other than the parties to this Agreement or their permitted successors or assigns, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

3.6 **Rights Reserved.** Except for rights expressly granted by the City herein, the City reserves all rights in and to the Easement including without limitation the right to use and occupy its Building and Easement Area for all purposes not inconsistent with the terms of this Easement.

3.7 **Indemnification.** Each party hereto shall indemnify, defend and hold harmless the other party from and against all claims, expenses, losses or liabilities in connection with any action or claims paid, suffered or incurred as a result of the indemnifying party's construction, maintenance, use or occupancy of the Easement as provided in this Agreement. Provided that the City does not waive any statutory or common law immunities or limitations of damages.

3.8 **Time Limitation.** This Easement and covenants shall commence on the date that construction of Improvements and installation of Security Equipment is completed, and shall

remain in effect in perpetuity, subject to the termination provisions of Section 1.1 above and 3.14 below.

3.9 **Amendment.** This Easement may not be amended or modified without the written consent of the parties hereto.

3.10 **Entire Agreement.** This Easement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

3.11 **Notices.** All notices, demands and other communications under this Easement by either party to the other party shall be sufficiently given or delivered if it is dispatched by first class mail, postage prepaid or delivered personally to the party at the following addresses:

Hotel Lowry Owner,
c/o Lowry Building LLC
Suite 400 Degree of Honor Building
325 Cedar St., Suite 400
St. Paul, MN 55101

City of Saint Paul
Real Estate, Suite 1000
25 W. 4th St.
St. Paul, Mn 55102

Either party may change the address for notice by giving the other party at least 10 days prior written notice.

3.12 **Limitation of Remedy.** Nothing in this Easement shall entitle the Hotel Lowry Owner to make any claim against the City for any damages of any kind, including without limitation, direct, consequential and incidental damages, and the sole remedy of the Hotel Lowry Owner against the City under this Easement is strictly limited to an action for specific performance.

3.13 **Insurance.** The Hotel Lowry Owner agrees to have the City named as an additional insured on all comprehensive general liability insurance policies or other policies it maintains that afford insurance for bodily injury, death and property damage arising from the use of the Fire Exit Easement by the Hotel Lowry Owner, and to deliver to the City certificates, beginning on the date hereof and continuing on the renewal dates of such insurance, stating that such insurance is in force and effect. This insurance shall have minimum liability limits of \$1,500,000 per occurrence.

3.14 **Default/City's Remedies.** If the Hotel Lowry Owner fails to timely make any of the payments or perform any of its agreements required in this Agreement after receiving thirty (30) days notice of such failure thereof by the City, then the City may elect to bring an action for

damages, and/or specific performance. The City is entitled to recover its reasonable attorney's fees, expenses and costs if it is the prevailing party in any legal proceeding.

SEPARATE SIGNATURE PAGE OF
LOWRY BUILDING LLC
FOR EASEMENT

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

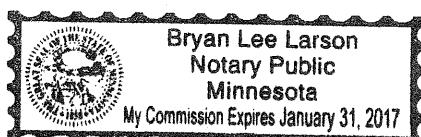
Lowry Building LLC

By:

James Campbell
Its REPRESENTATIVE

STATE OF MINNESOTA)
)
) ss
COUNTY OF RAMSEY)

The instrument was acknowledged before me this 13th day of December,
2012, by James Cracknell, its Representative, on
behalf of the Lowry Building LLC, a Minnesota limited liability company.



Bryan Lee Larson
Notary Public

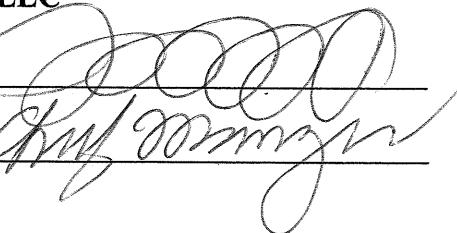
SEPARATE SIGNATURE PAGE OF
HLV, LLC
FOR EASEMENT

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

HLV, LLC

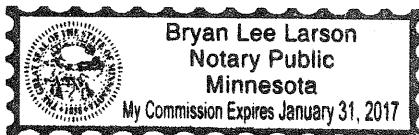
By:

Its



STATE OF MINNESOTA)
)
) ss
COUNTY OF RAMSEY)

The instrument was acknowledged before me this 13th day of December,
2012, by John Rupp, its Representative, on
behalf of the HLV, LLC, a Minnesota limited liability company.



Bryan Larson
Notary Public

**SEPARATE SIGNATURE PAGE OF
CITY OF SAINT PAUL**

FOR EASEMENT IN WITNESS WHEREOF, the undersigned has caused this Agreement to be made as of the day and year first above written.

CITY OF SAINT PAUL, MINNESOTA

By: _____
Its Deputy Mayor

By: _____
Its Director of Financial Services

By: _____
Its City Clerk

Approved as to form:

Assistant City Attorney

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, Deputy Mayor, _____, Director, Office of Financial Services and _____, City Clerk of the City of Saint Paul, a Minnesota municipal corporation under the laws of the State of Minnesota.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE HOTEL LOWRY PARCEL

Lot 11, Block 21, St. Paul Proper, Lot 12, Block 21, St. Paul Proper, the rear southerly 25 feet of Lot 1, Block 21, St. Paul Proper, the rear southerly 25 feet of Lot 2, Block 21, St. Paul Proper, City of St. Paul.

Torrens, Certificate Number 590090

EXHIBIT B

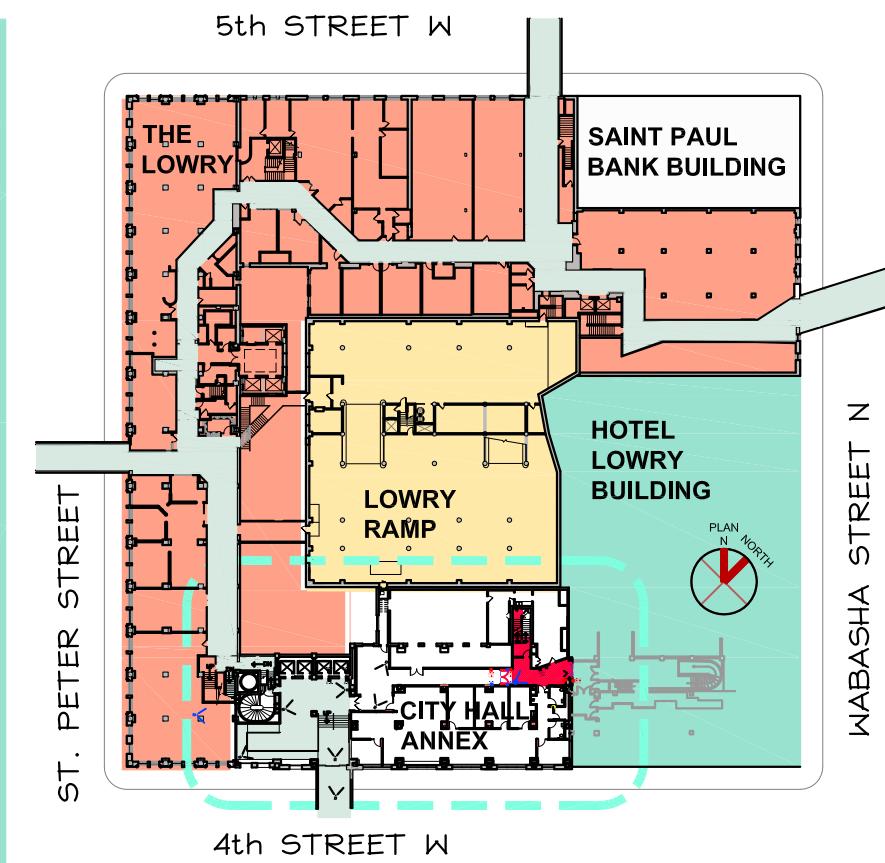
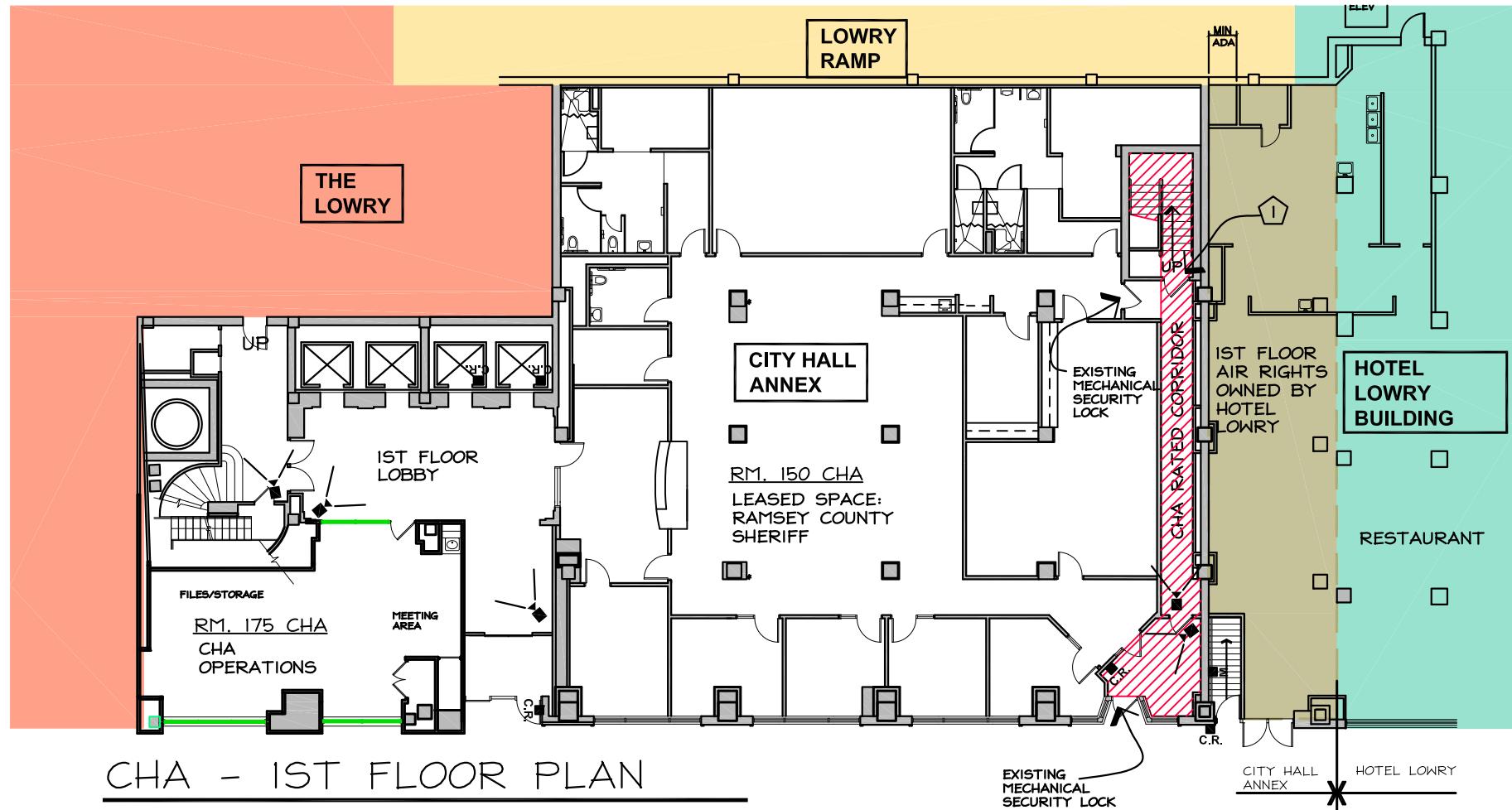
LEGAL DESCRIPTION OF THE CITY HALL ANNEX PARCEL

Part of Lots 8, 9 & 10 lying southeasterly of a construction building line described as follows; beginning on the westerly line of and 51.5 feet northwesterly from the southwesterly corner of Lot 8; thence northeasterly parallel with the southeasterly line of Block 21 for 51.96 feet; thence northwest at a right angle for 3.5 feet; thence northeasterly at a right angle for 12.4 feet; thence northwesterly at a right angle for 25.75 feet, thence northeasterly at a right angle more or less for 84.96 feet more or less to a point on the easterly line of and 80.7 feet northwesterly from the southeasterly corner of said Lot 10, Block 21, City of St. Paul.

EXHIBITS C1 AND C2

DEPICTION OF THE FIRE EXIT EASEMENT AREA

[Insert Depictions Here]



PLAN KEY

SPACE AREA FILLS

	EMERGENCY FIRE ESCAPE EASEMENT		THE LOWRY		LOWRY RAMP
	EXISTING SKYWAY		HOTEL LOWRY		CITY HALL ANNEX
					EXISTING CHA AIR RIGHTS/ HOTEL LOWRY

NOTES / CONSTRUCTION SPECIFICATIONS SEE EASEMENT DOCUMENTS: EXHIBIT "D") :



SECURITY DEVICES

	EXISTING SECURITY CAMERAS		NEW SECURITY CAMERAS
	EXISTING MOTION SENSOR M.		NEW MOTION SENSOR M.
	EXISTING CARD READER C.R.		NEW CARD READER C.R.

11/19/2012 Rev. Cameras
10/25/2011 Remove Spec. Notes
06/21/2011 Revised
03/26/2010 Revised
03/06/2008 Revised

City Hall Annex
Hotel Lowry
The Lowry
Lowry Ramp

SAINT PAUL, MINNESOTA

EASEMENT
LOCATIONS

EMERGENCY
FIRE ESCAPE
EASEMENT
1ST FLOOR

PROJECT NO: 0701.00
DRAWN BY: Michael Michaud
DATE: 10/22/07
CK BY:

EXHIBIT C2

EXHIBIT D — CONSTRUCTION SPECIFICATIONS and COSTS

See Exhibit C1 and C2 for Security equipment operations protocol.

Exhibit D

City Hall Annex

Summary of Estimated Build-out Costs

RAK Construction Costs

All work to install doors and construct Rated Fire Exit Path - 8/17/12 Est.

Scope	Cost
Demo Ceilings, Walls and Doors	\$2,080
Block work - Demo and install new Fire wall	\$1,170
Doors Frames and Hardware	\$10,765
Painter walls, ceiling and doors	\$2,680
Extend 3 Sprinkler heads to below new ceiling	\$1,200
Remove Marbel Wainscot	\$3,560
Reinstall Marble Wainscot including cutting and cleaning	\$10,680
Contrstruct rated wall and ceiling	\$9,760
Carpenters doors and access panels	\$2,300
5 access panels 2 hour rated	\$637
Permit	\$600
Dust Control	\$300
Cleanup	\$500
Job Supervision	\$1,500
Subtotal Above	\$47,732
OH&P on subs - 4%	\$725
OH&P on Materials and Labor - 10%	\$2,961
RAK Subtotal Costs	\$51,418

EGAN Company, Security and Door Control Devices - 12/14/2012 Est.

Door #1	(2) AC-600 Card Access Controller with backplates	\$3,860
Hallway	(2) HID 4" X 4" Card Reader (Ramsey County)	\$880
	(2) Performa 125-SG Card Reader (CHA/City)	\$890
	(2) Door contacts. Prep frame.	\$440
	(1) Local sounder	\$120
	(1) Poppit, Tie into Bosch security panel, programming	\$520
	(1) Isolation relay - tie into fire panel	\$418
	(2) Magnetic door holders	\$680
	Sub-Total	\$7,808
Door #2	(1) AC-600 Card access controller with backplates	\$2,150
CHA/Lowry	(2) HID 4" X 4" card reader (Ramsey County)	\$880
	(1) Door contacts. Prep frame.	\$360
	(1) Local sounder	\$120
	(1) Poppit, Tie into Bosch security panel, programming	\$520
	(1) Isolation relay - tie into fire panel	\$418
	Sub-Total	\$4,448

Security Cameras

Provide and install 1 Ganz Mini dome cameras for installation in hallway.	
Connection to existing system. Includes parts and labor.	\$900

Egan Subtotal Costs	\$13,156
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Peoples Electric, Rough-in Boxes for Devices and Power for Equipment and Lighting.

Install power rough-in for Power supplies and conduits to door frames and exit devices (estimated budget number).	\$1,500
Install 5 wall mounted light fixtures (estimated budget number).	\$1,500
Rough-in boxes for Magneting Hold-opens	\$150
Peoples Electric Subtotal Costs	\$3,150

Total Project Construction Costs	\$67,724
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CHA - Project Management/Supervision (3%)	\$2,032
Project Construction Contingency 15%	\$10,159
Project Budget Estimate for Hotel Lowry Fire Exit Construction	\$79,914