

EXHIBIT "A"

Council File No. 168108—Ordinance No. 16145 — By Huby Hunt—

AN ORDINANCE MAKING PROVISION THEREFOR AND GRANTING UNTO THE HOUSING AND REDEVELOPMENT AUTHORITY OF THE CITY OF SAINT PAUL, MINNESOTA A MINNESOTA CORPORATION, AND ITS SUCCESSORS OR ASSIGNS, PERMISSION TO CONSTRUCT, MAINTAIN AND OPERATE AN OVERHEAD PEDESTRIAN PASSAGWAY ACROSS WABASHA STREET BETWEEN THE INTERSECTION THEREWITH OF SIXTH STREET AND SEVENTH STREET PUBLIC STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF SAINT PAUL, SAID OVERHEAD PEDESTRIAN PASSAGWAY EXTENDED FROM THE DAYTON'S DEPARTMENT STORE BUILDING ON THE EAST SIDE OF WABASHA STREET TO THE WABASHA COURT BUILDING ON THE WEST SIDE OF WABASHA STREET.

The Council of the City of Saint Paul Does Ordain:

SECTION 1

That permission and authority hereby are granted to the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a Minnesota Corporation and/or its successors in interest to construct, maintain and operate an overhead pedestrian passageway across Wabasha Street between the intersection therewith of Sixth Street and Seventh Street, public streets within the corporate limits of the City of Saint Paul. Said overhead pedestrian passageway to be extended from the Dayton's Department Store Building on the east side of Wabasha Street to the Wabasha Court Building on the west side of Wabasha Street.

SECTION 2

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

- a. That said permittee and/or its successors in interest shall, at its own cost and expense and in accordance with all applicable ordinances of the City of Saint Paul, Statutes of the State of Minnesota and regulations of public authority having cognizance, construct, maintain, and operate said overhead pedestrian passageway hereunder;
b. That said permittee shall pay the costs for the publication of this ordinance;
c. That said permittee shall pay the costs of administration, engineering, and inspection incurred by the Department of Public Works because of this undertaking, said costs are estimated as a sum of Six Hundred Dollars (\$600.00) and shall be accounted for under Department of Public Works Project No. -1018;

d. That said permittee shall furnish the Department of Public Works all documents of record that are a part of the contract or incidental to its execution including, but not limited to, bid returns, award of contract, sum of contract, "as built" plans, tracings and tracings of shop plans;

e. That said permittee and/or its successors in interest shall construct said overhead pedestrian passageway entirely at its own expense and to the satisfaction of the Director of Public Works and in accordance with the approved plans and specifications marked Contract No. 76-214 of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, said plans on file in the Department of Public Works. Such construction shall be made in strict compliance with the American Association of State Highway Officials (A.A.S.H.O.) Specifications as amended and the Uniform Building Code and be authorized under a building permit issued by the Department of Community Services, Division of Housing and Building Code Enforcement;

f. That said permittee and/or its successors in interest shall fully indemnify, hold harmless, and defend the City of Saint Paul, its agents, officers and employees from any and all damages, claims, losses, judgments, suits or expenses and on account of all claims of whatever nature for injury to person(s) and/or property arising out of or connected with the construction, erection, maintenance, operation and/or removal of said overhead pedestrian passageway hereunder; and that supplemental to all other obligations, on their part, jointly and/or severally, hereunder, said permittee and/or its successors in interest shall furnish and maintain and pay all premiums and other expenses therefor, Casualty Insurance Coverage, with a duly licensed Casualty Insurance Company to the extent of Five Hundred Thousand Dollars (\$500,000.00) for injury to any person and/or persons in any single incident, and to the extent of Two Hundred Thousand Dollars (\$200,000.00) for damage to property in any single accident, each limiting the City of Saint Paul against liability on account of all claims of third persons for injury to person(s) and/or property arising out of or connected with the construction, erection, maintenance, operation and/or removal of said structures hereunder, at all times, and to furnish competent evidence of said coverage, from time to time, in the Director of Finance and Management Services of the City of Saint Paul;

g. That said permittee shall not proceed with construction unless and until said permittee shall have fully complied with the provisions regarding insurance and indemnification contained in the Department of Public Works, City of Saint Paul "Standard Supplemental Specifications for Highway Construction" dated September 1, 1976, Section Number 1205.2. For the purpose of this Ordinance, the first section of said specifications shall be read as though the word "permittee" was substituted for the word "contractor" wherever the same appears therein. Section 1305.2 of the Department of Public Works, City of Saint Paul "Standard Supplemental Specifications for Highway Construction" dated September 1, 1976 is hereby incorporated herein by reference as fully and as completely as if set forth herein verbatim;

h. That said permittee and/or its successors in interest, shall among other things, at their own cost and expense, make adequate and effective provisions therefor and drain all moisture, rain and snow which shall accumulate thereon by proper devices through said overhead pedestrian passageway and in a manner so that the flowing and/or spilling of same on any part of said section of said Wabasha Street shall be prevented at all times. Said permittee and/or its successors in interest shall maintain and operate said pedestrian bridge at its sole cost and expense in a safe condition for pedestrian travel. Such maintenance shall include, but shall not be limited to, window, floor and metal trim cleaning, polishing, and replacement; roof maintenance; repainting; light bulb replacement and light fixture cleaning; and the supply of heated and cooled air with each bridge to maintain temperature comparable to that normally maintained within heated and air-conditioned rental office spaces;

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1. That said permittee and/or its successors in interest shall at all times construct and maintain the supports of said overhead pedestrian passageway entirely within the lines of the subject private real estate and entirely without public street rights-of-way.

j. That said permittee shall notify the Traffic Bureau of the Department of Public Works if the construction or maintenance of said overhead pedestrian passageway shall make necessary the closing of Wabasha Street or any part thereof; all expenses incurred by the Traffic Bureau in furnishing, installing, or removing barricades, signs, and other control devices shall be paid by the permittee.

k. That said permittee and/or its successors in interest shall not use any part of said overhead pedestrian passageway for any advertisement or display purpose, without the written consent of the City of Saint Paul and the application thereto of any advertising material or display shall be deemed prohibited by this Ordinance.

l. That said permittee and/or its successors in interest shall, as aforesaid, at all pertinent times, in the construction, maintenance, and operation of said overhead pedestrian passageway hereunder, provide respectively a vertical clearance of at least 17 feet, 2 1/2 inches between and throughout the course of the bottom of said structure and the surface of said section of said Wabasha Street, except as altered by the City's future street work.

m. That said permittee expressly agrees to comply with Chapter 215 of the Saint Paul Legislative Code, as amended, pertaining to street obstructions.

n. That said permittee and/or its successors in interest shall complete the construction and erection of said overhead pedestrian passageway hereunder and in accordance with the requirements hereof by not later than one (1) year after commencement of construction. Said commencement shall be evidenced by Public Works' receipt of a

written notification thereof, and shall be dated therein, as further provided for under paragraph (a) below.

o. That said permittee shall notify the Bridge Engineer of the Department of Public Works before and when construction has been completed to allow for a final inspection.

p. That said overhead pedestrian passageway shall be removed by and at the sole cost and expense of said permittee and/or its successors in interest whenever the Council of the City of Saint Paul shall by Resolution determine such removal necessary in the public interest and accordingly order the removal of said structure from said location.

q. That said permittee shall, within the period of ten (10) days next after the publication of this Ordinance, file with the City Clerk its written acceptance of this Ordinance and agreement to be bound by all the provisions, terms and conditions thereof without limitation which written instrument of acceptance and agreement shall be in the form approved by the City Attorney.

r. That upon the execution of an Agreement by and between the City of Saint Paul, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, the Dayton Hudson Corporation and Sheehy Properties, Inc. respecting the aforesaid pedestrian passageway over Wabasha Street, the permittee, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, shall be relieved of any further obligation under the terms of this Ordinance, and the successors in interest of the permittee, the Dayton Hudson Corporation and Sheehy Properties, Inc. shall be responsible for paying the premiums for insurance of said overhead pedestrian passageway and shall also be responsible for providing the maintenance and operation of said overhead pedestrian passageway.

s. That upon the Housing and Redevelopment Authority's conveyance of its obligations under the terms of this Ordinance to the Dayton Hudson Corporation and Sheehy Properties, Inc., said permittee shall deliver into the City of Saint Paul a Surety Bond in the amount of Fifty Thousand Dollars (\$50,000.00), for said overhead pedestrian passageway (bridge) made and executed by said permittee's successors in interest as Principal, and a Corporate Surety Company duly authorized to transact business in the State of Minnesota as Surety, to and in favor of the City of Saint Paul as obligee, conditioned upon the permittee's successors in interest complying with the terms and conditions of this Ordinance, and also conditioned that, in the event the permittee's successors in interest fail to maintain, repair or replace the overhead pedestrian passageway to a reasonable standard of safety, or fail to remove said overhead pedestrian passageway upon order by the Council, the City of Saint Paul may undertake the maintenance, repair, replacement or removal in whole and may recover its reasonable cost incurred thereby from said surety, which Surety Bond shall remain in force and effect as long as said overhead pedestrian passageway or any part thereof remains in that portion of Wabasha Street as shown on plans on file with the Department of Public Works. The Surety Bond shall be in such form as shall be approved by the City Attorney, and shall have such Surety as shall be approved by the Director of Finance and Management Services.

t. That said permittee and/or its successors in interest shall submit proposed plans and specifications to the Department of Public Works for review and approval of any intended structural repairs or major maintenance work on the bridges, before any such

work may be carried out. Upon completion of such structural repairs approved by the Department of Public Works, permanent reproducible tracings shall be furnished the Department, showing the work done and in accordance with any "as built" changes, as well as reproducible shop drawing tracings of the same.

u. That said permittee shall submit the necessary insurance documents to the Office Engineer of the Department of Public Works. The Office Engineer shall submit said documents to the City Attorney of the City of Saint Paul for review and, if said insurance is sufficient, said documents shall be filed with the Director of Finance and Management Services of the City of Saint Paul.

SECTION 3

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

Adopted by the Council December 23, 1976.

Yeas — Councilmen Butler, Hoza, Hunt, Roedler, Sylvester—5.  
Nays—0.

Approved December 28, 1976.

GEORGE LATIMER  
Mayor  
(December 31, 1976)