



17796 Industrial Circle N.W. ■ Elk River, MN 55330
Phone: 763-241-8703 ■ Fax: 763-633-1380

Building Company Board of Director Meeting Minutes

Date: May 5, 2014
Time: 6:00 p.m.
Attendance:

Position	Committee Member	Arrive	Depart
Chair	Dave Lucas	Present	
Member	Rick Peterson	Present	
Member	Don Stauffer	Present	
Staff	Dawn Sorenson	Present	
Ex-Officio	Vanessta Spark	Absent	
Ex-Officio, CFO	Nick Taintor	Absent	

1. CALL TO ORDER at 6:00 p.m.

2. Mission and Vision

3. Conflict of Interest
No conflict of interest was noted.

4. Approval of Agenda and Review and approval of previous minutes
There were no additions to the agenda.
April 22, 2014 Spectrum Building Company Board of Directors meeting minutes approval.

On a motion duly made and seconded, Stauffer/Peterson, the Spectrum Building Company Board of Directors unanimously approved the consent agenda and April 22, 2014 meeting minutes as presented.

5. Public Input
None

6. New Business

6.1 Amended Purchase Agreement

The Board discussed at length the pros and cons of the proposed building purchase, the phase IV construction project, and the proposed amended purchase agreement as presented. The newly drafted purchase agreement now reads as follows:

THIS AMENDMENT, is made as of the _____ day of _____ 2014, by and between Elk River Industrial Development, LLC, a Minnesota limited liability company ("Seller"), Spectrum Building Company, and Minnesota nonprofit corporation ("Purchaser") and S. Robideau Construction, Inc., a Minnesota corporation.



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WHEREAS, the parties executed a Real Estate Purchase Agreement, dated January 30, 2013 (the "Purchase Agreement") providing for the purchase of Real Property, as that term is defined in the Purchase Agreement, for use by Spectrum High School, a Minnesota public charter school (the "School"), as a public school house and gymnasium serving sixth grade students; and

WHEREAS, the Real Property consists of Units 100-109 in a common interest community that was created on February 13, 2008, as reflected in that certain Declaration of Common Interest Community No. 78, The Commercial Condos at Elk River Business Park, originally recorded as Document No. 667463 (the "Declaration"); and

WHEREAS, contemporaneous with the recording of the Declaration, the Commercial Condos at Elk River Business Park Owners' Association (the "Owners' Association"), was incorporated as a Minnesota nonprofit corporation, as required by Minnesota Statutes Chapter 515B; and

WHEREAS, Seller and S. Robideau Construction, Inc. are the sole members of the Owner's Association, and as a Board of Directors has not been elected pursuant to Section 22.20 of the Declaration, have the authority to act on behalf of the Owners' Association; and

WHEREAS, Seller, Purchaser and S. Robideau Construction, Inc. desire to ensure that the purchase and operation of the Real Property by Purchaser are consistent with the Declaration and that the uses of and activities conducted in the common interest community are compatible with the interests and operations of the Purchaser and with the School; and

WHEREAS, the parties wish to record their agreements in writing.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the parties agree as follows:

1. Seller and S. Robideau Construction agree, on behalf of the Owner's Association, that prior to or contemporaneously with Closing, they will cause the Owner's Association to execute and record with the Sherburne County Recorder, and amendment to Section 7.03 of the Declaration, which shall be as follows:

7.03 The Units shall be used by the Owners and Occupants and their guests exclusively for business or educational uses. The uses must be compatible with other Units and with surrounding land uses so as not to produce hazardous or objectionable levels of noise, odor, dust, smoke, glare or other pollutants. The uses of the Units in the Complex and conduct of Unit occupants must not jeopardize the health, safety or welfare of the other Units or Unit occupants, nor be incompatible with the use of Units as schools or for the operation of programs serving children and youth. At least 80% of the Owners of the units must approve any amendment of this Section 7.03. The uses include but are not limited to:



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- a. Offices
- b. Educational facilities
- c. Warehouses
- d. Research/design facilities
- e. Wholesale businesses
- f. Medical, dental and optical labs
- g. Light manufacturing

2. Seller and Purchaser agree to amend Section 3 of the Purchase Agreement to recognize that a commitment for an owner's title insurance policy (Current ALTA Owner's Policy Form) was issued by Commercial Partners Title, LLC, as agent for Old Republic National Title Insurance Company on March 31, 2014, and that this commitment shall substitute for the Commitment described in the Purchase Agreement (the "New Commitment"). The parties agree that Purchaser has provided objections to title to the Real Property to Seller in writing with ten (10) days after receipt of the New Commitment. Seller's obligations with respect to curing Purchaser's objections to title based on the New Commitment and Purchaser's remedies shall remain as set forth in Section 3 of the Purchase Agreement.

3. Purchaser and Seller will cooperate to ensure that the Earnest Money is transferred from Land Title, Inc. to Commercial Partners Title, LLC, prior to the Closing Date.

4. The parties agree that the map attached as Exhibit A to this Amendment identifies parking spaces assigned to Purchaser pursuant to Section 8.02 of the Declaration, and identifies a bus dropoff/pickup area on the Real Property that will be used by the Purchaser. Exhibit A will be maintained with the corporate records of the Owner's Association, as required by Section 8.02 of the Declaration.

5. Seller and S. Robideau Construction, Inc., on behalf of the Owners' Association, agree that Purchaser's intended use of the Real Property does not violate Section 16.02 of the Declaration.

6. Pursuant to Section 16.03 of the Declaration, Seller and S. Robideau Construction, Inc. on behalf of the Owners' Association, agree that Purchaser may erect and display signage in and/or on the Real Property, which identifies the school and is proportionate in size and similar in messaging, to that displayed at Purchaser's school site located at 17796 Industrial Circle NW, Elk River, MN. Seller shall have the right to give final approval to the appearance of any signage, which approval shall not be unreasonably withheld.

7. Seller and S. Robideau Construction, Inc., on behalf of the Owners' Association, hereby exempt Purchaser from the obligation set forth in Section 21 of the Declaration that Purchaser shall pay at Closing, in addition to the Purchase Price, and amount equal to two month's assessments on all Units as a contribution to the Owners' Association's working capital fund.

8. Seller will use its best efforts to ensure that the tenancy of the Minnesota Department of Corrections on the Real Property is terminated on or before December 15, 2014, and that the



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leasehold now occupied by the Minnesota Department of Corrections is vacated on or before that date. In consideration of this agreement and Seller’s costs to relocate its current tenant, Purchaser shall pay Seller the amount of \$37,500, within 10 days of the date on which the Department of Corrections vacates its leasehold on the Real Property, if the relocation occurs on or before December 15, 2014.

9. On or before the Closing, Seller will deliver to Purchaser a copy of a fully executed amendment to Lease 11704, made as of October 1, 2009, between the Minnesota Department of Administration on behalf of the Minnesota Department of Corrections, as Lessee, and Commercial Condos of Elk River as Lessor. The amendment shall state that Lessee waives its right set forth in Section 9 of the Lease, to renew the Lease for an additional three years, beginning October 1, 2015.

10. Capitalized terms not otherwise defined herein have the meanings given them in the Purchase Agreement. As amended hereby, the Purchase Agreement is ratified and affirmed.

11. Delivery of an executed counterpart of this Amendment by email or facsimile constitutes delivery of an original.

IN WITNES WHEREOF the parties hereto have executed this Amendment as of the day and year first above written.

ELK RIVER INDUSTRIAL DEVLOEPMENT, LLC
By: _____
Its _____

SPECTRUM BUILDING COMPANY
By: _____
Its _____

S. ROBIDEAU CONSTRUCTION, INC.
By: _____
Its _____

Following discussion, on a motion duly made and seconded, Peterson/Lucas, the Spectrum Building Company Board of Directors approved, on a vote of 2 to 1, the Amended Purchase Agreement as presented, with the condition that the process not be prolonged any longer, with no additional requests for monetary compensation, and give authority to School’s attorney, Ellen McVeigh, to move forward with sending the amended purchase agreement onto the Seller with the conditions as stated. Board member Don Stauffer asked that his vote be recorded as “opposed”.

The Board went on to discuss the possibility of giving authority to Vanessta Spark, Executive Director of the school, to make administrative non-material changes within the terms and conditions of the



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previous motion noted above, for the purpose of streamlining the process of the Amended Purchase Agreement.

Following discussion, on a motion duly made and seconded, Lucas/Stauffer, the Spectrum Building Company Board of Directors unanimously approved granting Vanessta Spark, Executive Director, administrative authority to make decisions on the Board's behalf regarding any non-material changes only.

6.2 Construction Contract Bids – Review

Mr. Peterson stated that the construction company that Rivera Architects was originally most interested in, Schreiber Mullaney Construction, has expressed concern about investing resources prior to the School's financing being complete. He reported that Rivera is concerned about waiting to begin construction in terms of ordering materials, etc., until financing is complete, as it will severely delay the project which is already on a very tight time schedule. As a result, Mr. Peterson stated that Rivera is recommending that Erickson Builders and Company, Inc., be considered as the construction company for the project. Mr. Peterson will continue to update the Board as more information becomes available. The Spectrum Building Company will convene on May 16, 2014, 20 days from the date that the notice of intent was printed in the Elk River Star News to make a final construction company decision.

7. Miscellaneous
None

8. Next Meeting Agenda Input
None

9. Adjournment

On a motion duly made and seconded, Stauffer/Peterson, the Spectrum Building Company Board of Directors unanimously adjourned the meeting at 7:06 p.m.

A handwritten signature in black ink that reads 'Rick R. Peterson'. The signature is written in a cursive style with a large, prominent 'R' at the beginning.

Board Secretary Certification, Rick Peterson