

Freeborn & Peters LLP

RECORDATION NO. 30586 FILED

DEC 28 '12 -3 24 PM

SURFACE TRANSPORTATION BOARD

SURFACE TRANSPORTATION BOARD

December 21, 2012



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Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

Dear Ms. Brown:

Chicago

Springfield

I have enclosed for e-filing the document described below, to be recorded pursuant to §11301. This document is a Memorandum of Loan and Security Agreement, a primary document dated as of December 20, 2012. We request that this document be given the next Recordation No.

The names and addresses of the parties to the Memorandum of Loan and Security Agreement are as follows:

Secured Party:

The PrivateBank and Trust Company
120 South LaSalle Street
Chicago, IL 60603

Borrower:

Blue Sky Development & Leasing, LLC
5201 N. Washington Street
Grand Forks, ND 58203

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Ms. Cynthia T. Brown
December 21, 2012
Page 2

A description of the equipment covered by the Memorandum of Loan and Security Agreement consists of one (1) locomotive with make number EWD, NW-2 and Serial/VIN Number of 1005-06582.

A fee of \$42.00 is enclosed. Please return a copy by email to:

Shruti Voruganti
Freeborn & Peters LLP
311 S. Wacker Drive, Suite 3000
Chicago, IL 60606
Email: SVoruganti@freebornpeters.com

A short summary of the document to appear in the index as follows: A Memorandum of Loan and Security Agreement, dated as of December 20, 2012, between The PrivateBank and Trust Company, 120 South LaSalle Street, Chicago, IL 60603 and Blue Sky Development & Leasing, LLC, 5201 N. Washington Street, Grand Forks, ND 58203, covering one (1) locomotive with make number EWD, NW-2 and Serial/VIN number 1005-06582.

Very truly yours,



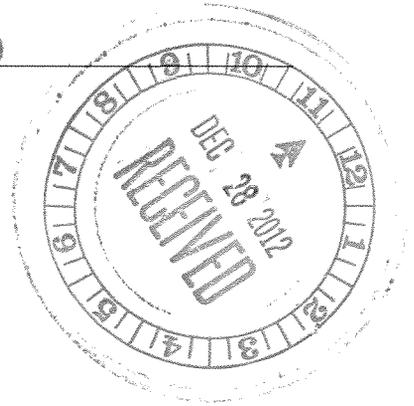
Shruti R. Voruganti

SRV/ka
Enclosure

RECORDATION NO. 30586 FILED

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SURFACE TRANSPORTATION BOARD



**MEMORANDUM OF
LOAN AND SECURITY AGREEMENT**

dated as of December 20, 2012

between

**BLUE SKY DEVELOPMENT & LEASING, LLC
as Debtor,**

and

**THE PRIVATEBANK AND TRUST COMPANY,
as Secured Party**

Filed with the Surface Transportation Board pursuant to
49 U.S.C. §11301 on December __, 2012, at __:__.M
Recordation Number _____

MEMORANDUM OF LOAN AND SECURITY AGREEMENT

THIS MEMORANDUM OF LOAN AND SECURITY AGREEMENT, dated as of December 20, 2012, is made by and between The PrivateBank and Trust Company (as "Secured Party") and Blue Sky Development & Leasing, LLC (the "Debtor").

WITNESSETH

1. Pursuant to a Loan and Security Agreement, dated as of December 20, 2012 (as amended, restated, supplemented or modified from time to time, the "Loan Agreement"), by and among Secured Party, Debtor, R & R Contracting, Inc., Smith Railway Services, Inc. and MJ Track Maintenance, LLC, Debtor has pledged to Secured Party a first priority security interest in all rail equipment described in Exhibit A attached hereto (the "Locomotive").

2. The Loan and Security Agreement shall be effective as of the date first set forth hereinabove and Debtor's use of the Locomotive shall be subject to the terms and conditions as set forth in the Loan and Security Agreement.

3. This Memorandum of Loan and Security Agreement may be executed in duplicate originals and any number of counterparts and by different parties in separate counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed and sealed by their respective corporate officers as of the date and year first above written.

SECURED PARTY:

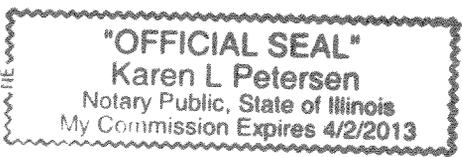
THE PRIVATEBANK AND TRUST COMPANY

By: [Signature]
Name: David L. Sauerman
Title: Managing Director

STATE OF Illinois :
COUNTY OF Lake :

On this, the 20th day of December, 2012, before me, the undersigned notary public, personally appeared David Sauerman who acknowledged himself/herself to be MD of The PrivateBank, a Bank, and the he/she as such MD, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]
Notary Public
My Commission Expires:

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed and sealed by their respective corporate officers as of the date and year first above written.

DEBTOR:

BLUE SKY DEVELOPMENT & LEASING, LLC

By: Heath Webber
Name: HEATH WEBBER
Title: C.F.O.

STATE OF North Dakota :
COUNTY OF Grand Forks :

On this, the 20th day of December, 2012, before me, the undersigned notary public, personally appeared Heath Webber who acknowledged himself/herself to be CFO of R²R Contracting, a ND Corporation, and that he/she as such CFO, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Joanne M Butterfield
Notary Public
My Commission Expires: 10-13-17

JOANNE M BUTTERFIELD
Notary Public
State of North Dakota
My Commission Expires Oct. 13, 2017

EXHIBIT A

Make	Description	SN/VIN#	Owner
EWD, NW-2	RC Locomotive	1005-06582	Blue Sky Development & Leasing, LLC