

0. *These materials should be considered along with the HRA Meeting, Item 1:*

Consider Loan Agreement for Coon Rapids Evergreen 23 LLC, 8701 and 8835 Evergreen Blvd.

a. Approve loan agreements with Coon Rapids Evergreen 23 LLC.

b. Authorize the Chair and Secretary to execute the loan agreements and authorize the Executive Director to execute additional loan documents as necessary for closing.



HRA Regular Meeting Addendum

0.

Meeting Date: 06/17/2014

Subject: Loan Agreements for Coon Rapids Evergreen 23 LLC, 8701 and 8835 Evergreen Blvd.

From: Matt Brown, Community
Development Specialist

INTRODUCTION

Attached are two loan agreements for the Magnum Trucking freight terminal project.

DISCUSSION

The HRA is considering business development loans for a new freight terminal at its June 17 work session and regular meeting. The proposed loan agreements for this project are attached. Loan agreement 1 is for construction of the freight terminal and maintenance building at 8835 Evergreen Boulevard. Loan agreement 2 is for land acquisition and installation of pavement on the site of the future warehouse building at 8701 Evergreen Boulevard.

RECOMMENDATION

If the HRA wishes to proceed with the loans:

- a. Approve the loan agreements with Coon Rapids Evergreen 23 LLC.
 - b. Authorize the Chair and Secretary to execute the loan agreements and authorize the Executive Director to execute additional loan documents as necessary for closing.
-

Fiscal Impact

Attachments

Loan Agreement, Phase I

Loan Agreement, Phase II

LOAN AGREEMENT

COON RAPIDS EVERGREEN 23 LLC

LOAN: \$250,000 TERM LOAN

PART 1. PARTIES, DATE, TERM AND PURPOSE

1.1 **Parties.** The parties to this Agreement are as follows:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA, a body politic and corporate under the laws of the State of Minnesota, whose business address is 11155 Robinson Drive, Coon Rapids, MN 55433, (hereinafter referred to as "Lender");

Lender administers a loan program to facilitate development and redevelopment in the City of Coon Rapids, Minnesota (the "City").

Coon Rapids Evergreen 23 LLC, a Minnesota Limited Liability Company, whose registered office address is 5910 Creek Point, Minnetonka, MN 55345, (the "Borrower"); and

Wayne H. Gadberry, whose address is 3220 Bohnet Blvd. North, Fargo, ND 58102, (the "Individual Guarantor"); and

David W. Gadberry, whose address is 1524 – 8th Street South, Fargo, ND 58103, (the "Individual Guarantor"); and

Matthew W. Gadberry, whose address is 1410 – 8th Street South, Fargo, ND 58103, (the "Individual Guarantor"); and

Cherie S. Gadberry, whose address is _____, _____, ND _____, (the "Individual Guarantor"); and

David W. Gadberry, trustee of the David W. Gadberry Irrevocable Trust under agreement dated December 20, 2013, whose address is 1524 – 8th Street South, Fargo, ND 58103, (the "Trust Guarantor"); and

Matthew W. Gadberry, trustee of the Matthew W. Gadberry Irrevocable Trust under agreement dated December 20, 2013, whose address is 1410 – 8th Street South, Fargo, ND 58103, (the "Trust Guarantor"); and

Rachel A. Mack, trustee of the Rachel A. Mack Irrevocable Trust under agreement dated December 20, 2013, whose address is 3220 Bohnet Blvd. North, Fargo, ND 58102, (the "Trust Guarantor"); and

Kara L. Price, trustee of the Kara L. Price Irrevocable Trust under agreement dated December 20, 2013, whose address is 5910 Creek Point, Minnetonka, MN 55345, (the "Trust Guarantor"); and

Magnum LTL, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023, Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Dedicated, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum LTD., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Logistics, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Warehousing, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Guarantors, the Individual Guarantors, the Corporate Guarantors and the Trust Guarantors may hereinafter be referred to collectively as (the "Guarantors" and/or "Guarantor").

1.2 **Date of this Agreement.** The date of this Agreement is June __, 2014.

1.3 **Term of this Agreement.** The term of this Agreement shall be from the date of this Agreement set forth above and continue thereafter until all indebtedness has been paid in full.

1.4 **Purpose of this Agreement.** Borrower has requested credit accommodations from Lender, to which Lender has agreed. Lender has granted to Borrower the following credit accommodations, on the conditions set forth herein:

Term Loan of Two Hundred Fifty Thousand Dollars (\$250,000) to be used for the purchase of a lot and construction of a new trucking terminal station on the real estate commonly known as 8835 Evergreen Blvd. NW, Coon Rapids, MN 55433 and having Anoka County PIN _____ (the "Property").

1.5 **SBA loan approval:** This loan is subject to approval of a loan in the approximate amount of \$4,480,000.00 by the U.S. Small Business Administration ("SBA").

PART 2. LOAN TERMS AND REPAYMENT

2.1 **Promissory Note.** In consideration of the receipt of the Term Loan (the "Loan"), Borrower shall repay to the Lender the Loan pursuant to the terms of the Promissory Note of even date (the "Note"), the form of which is attached hereto as Exhibit A and which Note terms include the following: interest at a rate of 5.25% per annum (the "Note Rate"); Interest shall commence to accrue on June __, 2014; Principal and Interest payments of \$1,684.61 per month beginning August 1, 2014 and continuing on the first day of each month thereafter, until July 1, 2034, on which day the entire remaining principal balance plus accrued interest shall be due and payable in full; the Note may be prepaid in full at any time during the loan term with no prepayment penalty, subject only to the requirement that the Borrower provide

Lender with at least 30 days written notice of the intent to prepay the obligation. Partial prepayment will not be allowed.

- 2.2 **Interest From Date of Closing.** Interest at the Note Rate on the Note principal shall commence to accrue on the Date of Closing and all accrued interest from said date through _____, 2014 shall be paid in advance to Lender in full on _____, 2014. Said amount is calculated to be \$_____.

PART 3. LOAN SECURITY AND GUARANTY

- 3.1 **Secured collateral.** Collateral securing all advances made on all loan accommodations described in this Agreement shall be as follows:
- a. **Third Mortgage.** The Borrower grants Lender a third priority mortgage on the Property. The legal description of the Property is:
_____, Anoka County, Minnesota (the "Property").
 - b. **Hazard insurance proceeds.** The Borrower shall maintain hazard insurance acceptable to the Lender on the Property in an amount sufficient at all times to either cover outstanding indebtedness owed to the Lender, or the value of the collateral, whichever is less, and the Borrower assigns proceeds of any and all hazard insurance on the foregoing collateral to Lender, and shall name the Lender as loss payee on any such policies.
 - c. **The Collateral.** The Third Mortgage and Hazard Insurance proceeds are hereinafter referred to collectively as (the "Collateral".)
- 3.2 **Ownership and care of collateral.** Borrower and Guarantors covenant that this Agreement and any security agreement/mortgage taken in connection with this Agreement will vest in Lender a third priority security interest/mortgage upon the Property/Collateral, subject to a first mortgage in the original amount of \$5,600,000.00 in favor of Bremer Bank, N.A. and a 2nd mortgage in the amount of \$4,480,000.00 in favor of the U.S. Small Business Administration. Borrower warrants it has good marketable title to the collateral.
- 3.3 **Documentation required to maintain valid third lien.** Borrower and Guarantors covenant that upon request of Lender they will execute such financing statements, security agreements, lien documents, and other perfection and security instrumentation as will ensure that Lender creates and maintains a valid and perfected third security interest/mortgage and third priority lien on the Collateral.
- 3.4 **Guaranty.** Guarantors herein covenant that they guaranty payment of all loan accommodations referred to in this Agreement and repayment of all advances made thereunder, together with interest and costs of collection, if any, including attorney fees not prohibited by law. Said guaranty is of payment and is a continuing, absolute, and unconditional guaranty.

PART 4. DOCUMENTS FURNISHED PERIODICALLY BY BORROWER AND GUARANTORS AND INSPECTIONS ALLOWED BY BORROWER

- 4.1 **Documents to be furnished periodically.** Borrower and Guarantors will furnish to Lender the following documents at the times indicated throughout the term of this Agreement:
- a. As a condition precedent to closing of this Agreement and upon request of Lender thereafter, evidence satisfactory to Lender that Borrower, the Corporate Guarantors and the Trust Guarantors are able and authorized to enter into and consummate the credit transactions referred to in this Agreement shall be provided. Such evidence shall include, but is not necessarily limited to, the following: Borrower's and the Corporate Guarantors' Articles of Organization/Articles of Incorporation; certificate of good standing from the state; company authorization resolutions; company minutes and Certificate of Trust; and if Lender requests in a separate writing, an opinion of Borrower's and the Corporate Guarantors' counsel to the foregoing effect.
 - b. As a condition precedent to closing of this Agreement and upon request of the Lender thereafter, appropriate loan documents to support the credit accommodations in this Agreement, including, as appropriate, promissory notes, mortgages, lease assignments, subordination agreements, other perfection documents, insurance and other collateral assignments, insurance certificates identifying Lender as loss payee, setoff disclosures, and any and all other documents and instruments which in the opinion of Lender are necessary to validate and consummate the credit transactions referred to in this Agreement will be received by Lender.
 - c. Annual accountant prepared, reviewed financial statements of Borrower, the Corporate Guarantors and the Trust Guarantors, to be received by Lender within 120 days after each fiscal year end.
 - d. Annual personal financial statements of Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.
 - e. Annual personal income tax returns (including all schedules and K-1's) of the Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.
- 4.2 **Borrower and Corporate Guarantors' record keeping and Lender inspection of Collateral and records.** Borrower and the Corporate Guarantors will keep true and accurate books and records of their business operations and accounts, and Borrower and the Corporate Guarantors will permit Lender at any reasonable time and during regular business hours to inspect the Property, any of Lender's secured collateral, and to examine Borrower's and the Corporate Guarantors' books, records, and files, and make copies thereof, and to discuss the affairs of Borrower and/or the Corporate Guarantors with their members/shareholders, officers, directors, and employees.

**PART 5. FINANCIAL COVENANTS AND LIMITATION ON
CERTAIN ACTIVITIES OF BORROWER**

- 5.1 **Indebtedness, liens, and disposition of assets.** Borrower and the Corporate Guarantors shall not, without the prior written consent of Lender, which will not be unreasonably withheld, do any of the following: except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement; incur indebtedness for borrowed money; sell, transfer, assign, pledge, lease, grant a security interest in, or otherwise encumber any of Borrower's and/or the Corporate Guarantors' assets, except to Lender.
- 5.2 **Ownership stability of Borrower.** Borrower covenants that unless prior written approval has been provided by Lender, Borrower's majority limited liability company membership interest holders in control of Borrower at the time of this Agreement shall not sell or otherwise relinquish majority ownership control of Borrower.
- 5.3 **Ownership stability of Corporate Guarantors.** The Corporate Guarantors covenant that unless prior written approval has been provided by Lender, the owners of a majority of the outstanding stock/membership interests of each Corporate Guarantor at the time of this Agreement shall not sell or otherwise relinquish their majority ownership control of the respective Corporate Guarantor.
- 5.4 **Change of business form or identity.** Borrower will not, without the prior written approval of Lender, change its business forms, business names or trade names, change location, or acquire or merge or consolidate with any other entity.
- 5.5 **Business taxes and insurance.** Borrower, the Corporate Guarantors and the Trust Guarantors covenant to pay all taxes associated with their respective businesses, including but not limited to income taxes, sales taxes, employee taxes, and all other business related taxes, whether federal, state, county, municipal, or imposed by any other governmental unit. Borrower further covenants to maintain liability, hazard insurance policies in coverages and with such endorsements as are satisfactory to Lender, and to pay all worker's compensation and unemployment premiums or charges, when due, to maintain all insurance policies and employment-related coverages in full force and effect throughout the term of this Agreement.
- 5.6 **Subordination of Borrower and the Corporate Guarantors debt owed to third party.** Any existing principal indebtedness owed by Borrower to current and or former limited liability company membership interest holders shall be relegated to and remain in a subordinated position to the indebtedness owed to Lender pursuant to this Agreement and as designated in any Debt Subordination Agreements. Borrower shall cause appropriate agreements to that effect to be entered into between Borrower and any said third party.

Unless otherwise agreed by the Lender in a separate writing, principal and interest repayment will not be permitted on any subordinated debt owed by Borrower.

PART 6. DEFAULT

- 6.1 **Default defined.** Default under this Agreement shall consist of anyone or more of the following events:
- a. Failure to pay when due any amount required of Borrower or any Guarantor under this Agreement or under any promissory note, security agreement, or other loan instrument or document executed in connection with this Agreement.
 - b. Failure to perform any act or deed required of Borrower or any Guarantor or failure to refrain from any act prohibited, under this Agreement or under any related instrument or document executed in connection with this Agreement.
 - c. Failure of majority limited liability company membership interest holders of Borrower to maintain their status as majority owners of Borrower.
 - d. Any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any Guarantor which is false or misleading in any material respect, either now or at the time made or furnished.
 - e. The dissolution or termination of Borrower's existence as a going business, insolvency, appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or by or against any Guarantor.
 - f. Failure to discharge taxes or other liens, other mortgages or charges levied or assessed against the Property/Collateral (other than the liens created under this Agreement by the parties).
 - g. Lender, in good faith, deems itself insecure.
 - h. Any other event defined as an event of default in any separate promissory note, security agreement, mortgage or other instrument or document executed in connection with this Agreement.
 - i. The Loan of the Borrower herein shall also be in default if there is an event of default on any other loans made by Lender to Borrower and any Guarantor or to any entity wherein any Guarantor under this Agreement is also a guarantor of that separate loan.
 - j. Death of any Individual Guarantor to the extent life insurance assigned or pledged to the Lender, or other sources of funds or security, are unavailable to reasonably substitute for the financial security which the deceased Individual Guarantor had provided to the Lender with his/her Guaranty during his/her life.
 - k. Any attempt by any Guarantor to revoke the guaranty or impair its enforceability.

- 6.2 **Remedies.** In the event default occurs, Lender may exercise anyone or more of the following rights and remedies:
- a. Declare the entire balance of the Loan or any or all loans governed by this Agreement as immediately due and payable.
 - b. Take possession of the Propert/Collateral by self help or judicial action, foreclosure, or other procedures and dispose of the Collateral pursuant to applicable laws of the State or Federal Governments.
 - c. Commence and prosecute an action to collect the Loan from Borrower or any Guarantor, or any or all of them.
 - d. Refuse to make any further advances under this Agreement or under any instrument or document executed in connection with this Agreement.
 - e. Exercise such additional or alternative remedies as are available to Lender under the terms of this Agreement, under any instrument or document executed in connection with this Agreement, or under applicable law.

PART 7. MISCELLANEOUS PROVISIONS

- 7.1 **Limited Liability Company status and authority of Borrower.** Borrower herein covenants that it is a limited liability company duly organized and existing and in good standing under the laws of the State of Minnesota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; Borrower has full power, authority, and proper authorization to enter into this Agreement and the Loan and security transactions attendant thereto.
- 7.2 **Corporation status and authority of Corporate Guarantor Magnum LTL, Inc.** Magnum LTL, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.3 **Corporation status and authority of Corporate Guarantor Magnum Dedicated, Inc.** Magnum Dedicated, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.4 **Corporation status and authority of Corporate Guarantor Magnum LTD** Magnum LTD covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this

Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.

- 7.5 **Corporation status and authority of Corporate Guarantor Magnum Logistics, Inc.** Magnum Logistics, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.6 **Corporation status and authority of Corporate Guarantor Magnum Warehousing, Inc.** Magnum Warehousing, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.7 **Trust status and authority.** Each of the Trust Guarantors by their respective Trustees acknowledge their respective Trust Certificates dated as of the date of this Agreement, and reassert that each of the Trusts has the full power and authority and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.8 **No waiver.** No delay or failure by Lender in the exercise of any right or remedy under this Agreement or under law shall constitute a waiver thereof, and no single or partial exercise by Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.
- 7.9 **Agreements upheld despite invalidity of any clause.** If a court of competent jurisdiction determines any clause or provision of this Agreement to be invalid or void for any reason, such findings will not affect the validity and enforceability of the balance of this Agreement.
- 7.10 **Collection costs and expenses.** Borrower and Guarantors agree to pay upon demand all of Lender's court costs and disbursements, including attorney's fees, and other expenses allowed by law or the court, incurred in connection with this Agreement and the enforcement thereof or in connection with the loan or the collection thereof.
- 7.11 **Modifications in writing only.** Any modification of this Agreement must be in writing and signed by all parties hereto to be valid.
- 7.12 **Applicable law.** The loan documents discussed herein shall be governed by and construed in accordance with the laws of the State of Minnesota. The Lender may, in its discretion, utilize the laws of other states where property of the Borrower or any Guarantor is located to enforce this Agreement and collect the indebtedness. Lender may also in its sole discretion utilize any applicable federal laws of the United States of

America to enforce this Agreement and the Lender's rights in the Collateral pledged in this Agreement and collect the indebtedness described herein.

7.13 **Notice of litigation.** Borrower and Guarantors shall promptly inform Lender in writing of all material adverse changes in Borrower's or any Guarantor's financial condition, and all litigation and claims and all threatened litigation and claims affecting the Borrower or any Guarantor that could materially affect the financial condition of the Borrower or any Guarantor.

7.14 **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address on the cover page of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying the purpose of the notice is to change the party's address.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

LENDER:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA

a body politic and corporate under the laws of the State of Minnesota

By: _____
Its Executive Director

Dated: _____

BORROWER:

Coon Rapids Evergreen 23 LLC, a Minnesota Limited Liability Company

By: _____
Its: Chief Manager

Dated: _____

INDIVIDUAL GUARANTOR:

Wayne H. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

David W. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

Matthew W. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

Cherie S. Gadberry

Dated: _____

**TRUST GUARANTOR:
David W. Gadberry Trust dated December 20, 2013**

David W. Gadberry, Trustee

Dated: _____

**TRUST GUARANTOR:
Matthew W. Gadberry Trust dated December 20, 2013**

Matthew W. Gadberry, Trustee

Dated: _____

TRUST GUARANTOR:
Rachel A. Mack Trust dated December 20, 2013

Rachel A. Mack, Trustee

Dated: _____

TRUST GUARANTOR:
Kara L. Price Trust dated December 20, 2013

Kara L. Price, Trustee

Dated: _____

CORPORATE GUARANTORS:

Magnum LTL, Inc.
a North Dakota Corporation

By: _____
Its: President

Dated: _____

Magnum Dedicated, Inc.,
a North Dakota Corporation

By: _____
Its: President

Dated: _____

Magnum LTD.
a North Dakota Corporation

By: _____
Its: President

Dated: _____

**Magnum Logistics, Inc.,
a North Dakota Corporation**

By: _____

Its: President

Dated: _____

**Magnum Warehousing, Inc.,
a North Dakota Corporation**

By: _____

Its: President

Dated: _____

DRAFT

DRAFT

LOAN AGREEMENT

COON RAPIDS EVERGREEN 23 LLC

LOAN: \$250,000 TERM LOAN

PART 1. PARTIES, DATE, TERM AND PURPOSE

1.1 **Parties.** The parties to this Agreement are as follows:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA, a body politic and corporate under the laws of the State of Minnesota, whose business address is 11155 Robinson Drive, Coon Rapids, MN 55433, (hereinafter referred to as "Lender");

Lender administers a loan program to facilitate development and redevelopment in the City of Coon Rapids, Minnesota (the "City").

Coon Rapids Evergreen 23 LLC, a Minnesota Limited Liability Company, whose registered office address is 5910 Creek Point, Minnetonka, MN 55345, (the "Borrower"); and

Wayne H. Gadberry, whose address is 3220 Bohnet Blvd. North, Fargo, ND 58102, (the "Individual Guarantor"); and

David W. Gadberry, whose address is 1524 – 8th Street South, Fargo, ND 58103, (the "Individual Guarantor"); and

Matthew W. Gadberry, whose address is 1410 – 8th Street South, Fargo, ND 58103, (the "Individual Guarantor"); and

Cherie S. Gadberry, whose address is _____, _____, ND _____, (the "Individual Guarantor"); and

David W. Gadberry, trustee of the David W. Gadberry Irrevocable Trust under agreement dated December 20, 2013, whose address is 1524 – 8th Street South, Fargo, ND 58103, (the "Trust Guarantor"); and

Matthew W. Gadberry, trustee of the Matthew W. Gadberry Irrevocable Trust under agreement dated December 20, 2013, whose address is 1410 – 8th Street South, Fargo, ND 58103, (the "Trust Guarantor"); and

Rachel A. Mack, trustee of the Rachel A. Mack Irrevocable Trust under agreement dated December 20, 2013, whose address is 3220 Bohnet Blvd. North, Fargo, ND 58102, (the "Trust Guarantor"); and

Kara L. Price, trustee of the Kara L. Price Irrevocable Trust under agreement dated December 20, 2013, whose address is 5910 Creek Point, Minnetonka, MN 55345, (the "Trust Guarantor"); and

Magnum LTL, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023, Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Dedicated, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum LTD., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Logistics, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Magnum Warehousing, Inc., a North Dakota Corporation, whose registered address is 3000 7th Avenue North, PO Box 2023 Fargo, ND, 58107, ("Corporate Guarantor"); and

Guarantors, the Individual Guarantors, the Corporate Guarantors and the Trust Guarantors may hereinafter be referred to collectively as (the "Guarantors" and/or "Guarantor").

1.2 **Date of this Agreement.** The date of this Agreement is June __, 2014.

1.3 **Term of this Agreement.** The term of this Agreement shall be from the date of this Agreement set forth above and continue thereafter until all indebtedness has been paid in full.

1.4 **Purpose of this Agreement.** Borrower has requested credit accommodations from Lender, to which Lender has agreed. Lender has granted to Borrower the following credit accommodations, on the conditions set forth herein:

Term Loan of Two Hundred Fifty Thousand Dollars (\$250,000) to be used for the purchase of a lot and site improvements on the real estate commonly known as 8701 Evergreen Blvd. NW, Coon Rapids, MN 55433 and having Anoka County PIN _____ that are part of the new construction of a new trucking terminal station (the "Property").

1.5 **SBA loan approval:** This loan is subject to approval of a loan in the approximate amount of \$616,000.00 by the U.S. Small Business Administration ("SBA").

PART 2. LOAN TERMS AND REPAYMENT

2.1 **Promissory Note.** In consideration of the receipt of the Term Loan (the "Loan"), Borrower shall repay to the Lender the Loan pursuant to the terms of the Promissory Note of even date (the "Note"), the form of which is attached hereto as Exhibit A and which Note terms include the following: interest at a rate of 5.25% per annum (the "Note Rate"); Interest shall commence to accrue on June __, 2014; Principal and Interest payments of \$1,684.61 per month beginning August 1, 2014 and continuing on the first day of each month thereafter, until July 1, 2034, on which day the entire remaining principal balance plus accrued interest shall be due and payable in full; the Note may be prepaid in full at any time during the loan

term with no prepayment penalty, subject only to the requirement that the Borrower provide Lender with at least 30 days written notice of the intent to prepay the obligation. Partial prepayment will not be allowed.

- 2.2 **Interest From Date of Closing.** Interest at the Note Rate on the Note principal shall commence to accrue on the Date of Closing and all accrued interest from said date through _____, 2014 shall be paid in advance to Lender in full on _____, 2014. Said amount is calculated to be \$_____.

PART 3. LOAN SECURITY AND GUARANTY

- 3.1 **Secured collateral.** Collateral securing all advances made on all loan accommodations described in this Agreement shall be as follows:
- a. **Third Mortgage.** The Borrower grants Lender a third priority mortgage on the Property. The legal description of the Property is:
_____, Anoka County, Minnesota (the “Property”).
 - b. **Hazard insurance proceeds.** The Borrower shall maintain hazard insurance acceptable to the Lender on the Property in an amount sufficient at all times to either cover outstanding indebtedness owed to the Lender, or the value of the collateral, whichever is less, and the Borrower assigns proceeds of any and all hazard insurance on the foregoing collateral to Lender, and shall name the Lender as loss payee on any such policies.
 - c. **The Collateral.** The Third Mortgage and Hazard Insurance proceeds are hereinafter referred to collectively as (the “Collateral”).
- 3.2 **Ownership and care of collateral.** Borrower and Guarantors covenant that this Agreement and any security agreement/mortgage taken in connection with this Agreement will vest in Lender a third priority security interest/mortgage upon the Property/Collateral, subject to a first mortgage in the original amount of \$750,000.00 in favor of Bremer Bank, N.A. and a second mortgage in the original amount of \$616,000.00 in favor of U.S. Small Business Administration. Borrower warrants it has good marketable title to the collateral.
- 3.3 **Documentation required to maintain valid third lien.** Borrower and Guarantors covenant that upon request of Lender they will execute such financing statements, security agreements, lien documents, and other perfection and security instrumentation as will ensure that Lender creates and maintains a valid and perfected third security interest/mortgage and third priority lien on the Collateral.
- 3.4 **Guaranty.** Guarantors herein covenant that they guaranty payment of all loan accommodations referred to in this Agreement and repayment of all advances made thereunder, together with interest and costs of collection, if any, including attorney fees

not prohibited by law. Said guaranty is of payment and is a continuing, absolute, and unconditional guaranty.

PART 4. DOCUMENTS FURNISHED PERIODICALLY BY BORROWER AND GUARANTORS AND INSPECTIONS ALLOWED BY BORROWER

4.1 **Documents to be furnished periodically.** Borrower and Guarantors will furnish to Lender the following documents at the times indicated throughout the term of this Agreement:

- a. As a condition precedent to closing of this Agreement and upon request of Lender thereafter, evidence satisfactory to Lender that Borrower, the Corporate Guarantors and the Trust Guarantors are able and authorized to enter into and consummate the credit transactions referred to in this Agreement shall be provided. Such evidence shall include, but is not necessarily limited to, the following: Borrower's and the Corporate Guarantors' Articles of Organization/Articles of Incorporation; certificate of good standing from the state; company authorization resolutions; company minutes and Certificate of Trust; and if Lender requests in a separate writing, an opinion of Borrower's and the Corporate Guarantors' counsel to the foregoing effect.
- b. As a condition precedent to closing of this Agreement and upon request of the Lender thereafter, appropriate loan documents to support the credit accommodations in this Agreement, including, as appropriate, promissory notes, mortgages, lease assignments, subordination agreements, other perfection documents, insurance and other collateral assignments, insurance certificates identifying Lender as loss payee, setoff disclosures, and any and all other documents and instruments which in the opinion of Lender are necessary to validate and consummate the credit transactions referred to in this Agreement will be received by Lender.
- c. Annual accountant prepared, reviewed financial statements of Borrower the Corporate Guarantors and the Trust Guarantors, to be received by Lender within 120 days after each fiscal year end.
- d. Annual personal financial statements of Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.
- e. Annual personal income tax returns (including all schedules and K-1's) of the Individual Guarantors, to be submitted concurrently with the Borrower's statement required above.

4.2 **Borrower and Corporate Guarantors' record keeping and Lender inspection of Collateral and records.** Borrower and the Corporate Guarantors will keep true and accurate books and records of their business operations and accounts, and Borrower and the Corporate Guarantors will permit Lender at any reasonable time and during regular business hours to inspect the Property, any of Lender's secured collateral, and to examine Borrower's and the Corporate Guarantors' books, records, and files, and make copies

thereof, and to discuss the affairs of Borrower and/or the Corporate Guarantors with their members/shareholders, officers, directors, and employees.

PART 5. FINANCIAL COVENANTS AND LIMITATION ON CERTAIN ACTIVITIES OF BORROWER

- 5.1 **Indebtedness, liens, and disposition of assets.** Borrower shall not, without the prior written consent of Lender, which will not be unreasonably withheld, do any of the following: except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement; incur indebtedness for borrowed money; sell, transfer, assign, pledge, lease, grant a security interest in, or otherwise encumber any of Borrower's assets, except to Lender.
- 5.2 **Ownership stability of Borrower.** Borrower covenants that unless prior written approval has been provided by Lender, Borrower's majority limited liability company membership interest holders in control of Borrower at the time of this Agreement shall not sell or otherwise relinquish majority ownership control of Borrower.
- 5.3 **Ownership stability of Corporate Guarantors.** The Corporate Guarantors covenant that unless prior written approval has been provided by Lender, the owners of a majority of the outstanding stock/membership interests of each Corporate Guarantor at the time of this Agreement shall not sell or otherwise relinquish their majority ownership control of the respective Corporate Guarantor.
- 5.4 **Change of business form or identity.** Borrower will not, without the prior written approval of Lender, change its business forms, business names or trade names, change location, or acquire or merge or consolidate with any other entity.
- 5.5 **Business taxes and insurance.** Borrower, the Corporate Guarantors and the Trust Guarantors covenant to pay all taxes associated with their respective businesses, including but not limited to income taxes, sales taxes, employee taxes, and all other business related taxes, whether federal, state, county, municipal, or imposed by any other governmental unit. Borrower further covenants to maintain liability, hazard insurance policies in coverages and with such endorsements as are satisfactory to Lender, and to pay all worker's compensation and unemployment premiums or charges, when due, to maintain all insurance policies and employment-related coverages in full force and effect throughout the term of this Agreement.
- 5.6 **Subordination of Borrower and the Corporate Guarantors debt owed to third party.** Any existing principal indebtedness owed by Borrower to current and or former limited liability company membership interest holders, shall be relegated to and remain in a subordinated position to the indebtedness owed to Lender pursuant to this Agreement and as designated in any Debt Subordination Agreements. Borrower shall cause appropriate agreements to that effect to be entered into between Borrower and any said third party.

Unless otherwise agreed by the Lender in a separate writing, principal and interest repayment will not be permitted on any subordinated debt owed by Borrower.

PART 6. DEFAULT

- 6.1 **Default defined.** Default under this Agreement shall consist of anyone or more of the following events:
- a. Failure to pay when due any amount required of Borrower or any Guarantor under this Agreement or under any promissory note, security agreement, or other loan instrument or document executed in connection with this Agreement.
 - b. Failure to perform any act or deed required of Borrower or any Guarantor or failure to refrain from any act prohibited, under this Agreement or under any related instrument or document executed in connection with this Agreement.
 - c. Failure of majority limited liability company membership interest holders of Borrower to maintain their status as majority owners of Borrower.
 - d. Any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any Guarantor which is false or misleading in any material respect, either now or at the time made or furnished.
 - e. The dissolution or termination of Borrower's existence as a going business, insolvency, appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or by or against any Guarantor.
 - f. Failure to discharge taxes or other liens, other mortgages or charges levied or assessed against the Property/Collateral (other than the liens created under this Agreement by the parties).
 - g. Lender, in good faith, deems itself insecure.
 - h. Any other event defined as an event of default in any separate promissory note, security agreement, mortgage or other instrument or document executed in connection with this Agreement.
 - i. The Loan of the Borrower herein shall also be in default if there is an event of default on any other loans made by Lender to Borrower and any Guarantor or to any entity wherein any Guarantor under this Agreement is also a guarantor of that separate loan.
 - j. Death of any Individual Guarantor to the extent life insurance assigned or pledged to the Lender, or other sources of funds or security, are unavailable to reasonably substitute for the financial security which the deceased Individual Guarantor had provided to the Lender with his/her Guaranty during his/her life.
 - k. Any attempt by any Guarantor to revoke the guaranty or impair its enforceability.

- 6.2 **Remedies.** In the event default occurs, Lender may exercise anyone or more of the following rights and remedies:
- a. Declare the entire balance of the Loan or any or all loans governed by this Agreement as immediately due and payable.
 - b. Take possession of the Property/Collateral by self help or judicial action, foreclosure, or other procedures and dispose of the Collateral pursuant to applicable laws of the State or Federal Governments.
 - c. Commence and prosecute an action to collect the Loan from Borrower or any Guarantor, or any or all of them.
 - d. Refuse to make any further advances under this Agreement or under any instrument or document executed in connection with this Agreement.
 - e. Exercise such additional or alternative remedies as are available to Lender under the terms of this Agreement, under any instrument or document executed in connection with this Agreement, or under applicable law.

PART 7. MISCELLANEOUS PROVISIONS

- 7.1 **Limited Liability Company status and authority of Borrower.** Borrower herein covenants that it is a limited liability company duly organized and existing and in good standing under the laws of the State of Minnesota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; Borrower has full power, authority, and proper authorization to enter into this Agreement and guarantee the Loan and security transactions attendant thereto.
- 7.2 **Corporation status and authority of Corporate Guarantor Magnum LTL, Inc.** Magnum LTL, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.3 **Corporation status and authority of Corporate Guarantor Magnum Dedicated, Inc.** Magnum Dedicated, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.4 **Corporation status and authority of Corporate Guarantor Magnum LTD** Magnum LTD covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this

Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.

- 7.5 **Corporation status and authority of Corporate Guarantor Magnum Logistics, Inc.** Magnum Logistics, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.6 **Corporation status and authority of Corporate Guarantor Magnum Warehousing, Inc.** Magnum Warehousing, Inc. covenants that it is a corporation duly organized and existing and in good standing under the laws of the State of North Dakota and has the appropriate power and authority to own its property and carry on its business as it is being conducted at the time of this Agreement; that it has full power, authority, and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.7 **Trust status and authority.** Each of the Trust Guarantors by their respective Trustees acknowledge their respective Trust Certificates dated as of the date of this Agreement, and reassert that each of the Trusts has the full power and authority and proper authorization to enter into this Agreement and to guarantee the Loan and security transactions attendant thereto.
- 7.8 **No waiver.** No delay or failure by Lender in the exercise of any right or remedy under this Agreement or under law shall constitute a waiver thereof, and no single or partial exercise by Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.
- 7.9 **Agreements upheld despite invalidity of any clause.** If a court of competent jurisdiction determines any clause or provision of this Agreement to be invalid or void for any reason, such findings will not affect the validity and enforceability of the balance of this Agreement.
- 7.10 **Collection costs and expenses.** Borrower and Guarantors agree to pay upon demand all of Lender's court costs and disbursements, including attorney's fees, and other expenses allowed by law or the court, incurred in connection with this Agreement and the enforcement thereof or in connection with the loan or the collection thereof.
- 7.11 **Modifications in writing only.** Any modification of this Agreement must be in writing and signed by all parties hereto to be valid.
- 7.12 **Applicable law.** The loan documents discussed herein shall be governed by and construed in accordance with the laws of the State of Minnesota. The Lender may, in its discretion, utilize the laws of other states where property of the Borrower or any Guarantor is located to enforce this Agreement and collect the indebtedness. Lender may also in its sole discretion utilize any applicable federal laws of the United States of

America to enforce this Agreement and the Lender's rights in the Collateral pledged in this Agreement and collect the indebtedness described herein.

7.13 **Notice of litigation.** Borrower and Guarantors shall promptly inform Lender in writing of all material adverse changes in Borrower's or any Guarantor's financial condition, and all litigation and claims and all threatened litigation and claims affecting the Borrower or any Guarantor that could materially affect the financial condition of the Borrower or any Guarantor.

7.14 **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address on the cover page of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying the purpose of the notice is to change the party's address.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

LENDER:

THE HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF COON RAPIDS, MINNESOTA

a body politic and corporate under the laws of the State of Minnesota

By: _____
Its Executive Director

Dated: _____

BORROWER:

Coon Rapids Evergreen 23 LLC, a Minnesota Limited Liability Company

By: _____
Its: Chief Manager

Dated: _____

INDIVIDUAL GUARANTOR:

Wayne H. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

David W. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

Matthew W. Gadberry

Dated: _____

INDIVIDUAL GUARANTOR:

Cherie S. Gadberry

Dated: _____

TRUST GUARANTOR:

David W. Gadberry Trust dated December 20, 2013

Wayne H. Gadberry, Trustee

Dated: _____

TRUST GUARANTOR:

Matthew W. Gadberry Trust dated December 20, 2013

Wayne H. Gadberry, Trustee

Dated: _____

**TRUST GUARANTOR:
Rachel A. Mack Trust dated December 20, 2013**

Wayne H. Gadberry, Trustee

Dated: _____

**TRUST GUARANTOR:
Kara L. Price Trust dated December 20, 2013**

Wayne H. Gadberry, Trustee

Dated: _____

CORPORATE GUARANTORS:

**Magnum LTL, Inc.
a North Dakota Corporation**

By: _____
Its: President

Dated: _____

**Magnum Dedicated, Inc.,
a North Dakota Corporation**

By: _____
Its: President

Dated: _____

Magnum LTD.
a North Dakota Corporation

By: _____
Its: President

Dated: _____

Magnum Logistics, Inc.,
a North Dakota Corporation

By: _____
Its: President

Dated: _____

DRAFT

**Magnum Warehousing, Inc.,
a North Dakota Corporation**

By: _____
Its: President

Dated: _____

DRAFT