

43.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

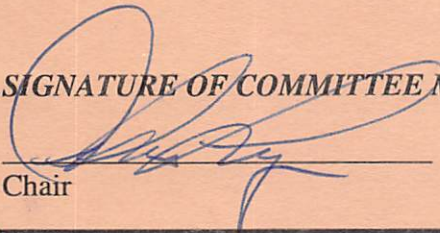
File Number	Title	Status
R-2009-0197	Resolution	Introduced
Resolution directing the Director of Development to execute the Offer to Purchase for the properties located at 11528 W. Rogers St. and 11406 W. Rogers St. (Tax Key Nos. 481-9993-010 and 481-9993-013).		
Introduced: 9/1/2009		Controlling Body: Safety & Development Committee
Sponsor(s): Safety & Development Committee		

COMMITTEE RECOMMENDATION

ADOPT SUBJ TO CITY ATTORNEY APPROVAL

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>9/1/09</u>	<input checked="" type="checkbox"/>		Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
		<input checked="" type="checkbox"/>	Vitale	✓			
			Weigel				
			TOTAL	<u>5</u>	<u>0</u>		

SIGNATURE OF COMMITTEE MEMBER



Chair _____ Vice-Chair _____ Member _____

COMMON COUNCIL ACTION *adopt subject to City Attorney Approval*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>9-1-09</u>	<input checked="" type="checkbox"/>		Barczak	✓			
			Czaplewski	✓			
			Kopplin	✓			
			Lajsic	✓			
		<input checked="" type="checkbox"/>	Narlock	✓			
			Reinke	✓			
			Roadt	✓	✓		
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
			TOTAL	<u>9</u>	<u>1</u>		



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2009-0197

Final Action:

Sponsor(s): Safety & Development Committee

SEP - 1 2009

Resolution directing the Director of Development to execute the Offer to Purchase for the properties located at 11528 W. Rogers St. and 11406 W. Rogers St. (Tax Key Nos. 481-9993-010 and 481-9993-013).

WHEREAS, the Community Development Authority of the City of West Allis (the "Authority") approved, under Resolution No. 745 dated 12-9-08, the acquisition and redevelopment of the property located at 11528 W. Rogers St. and 11406 W. Rogers St. (the "Property") (former Yellow Freight Site); and,

WHEREAS, the Common Council of the City of West Allis (the "City") adopted, under Resolution No. R-2008-0179 dated 8-5-08, the creation of Tax Incremental Financing District Number Ten; and,

WHEREAS the Director of Development, being duly authorized and directed to proceed to negotiate the acquisition of the Property, subject to final approval of the terms and conditions of the acquisition by the Authority; and,

WHEREAS, the total purchase price of the Property is estimated at \$2,872,800.00, all of which is to be funded by Tax Incremental Financing District Number Ten; and,

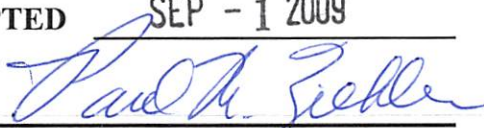
WHEREAS, the City Attorney will review all terms and conditions of the Offer to Purchase.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Director of Development is directed to execute an Offer to Purchase for the property locate 11528 W. Rogers St. and 11406 W. Rogers St.

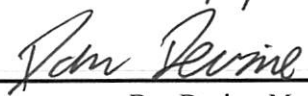
BE IT FURTHER RESOLVED that the City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of the Agreement, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

DEV-R-569-9-1-09

cc: Department of Development
City Attorney

ADOPTED SEP - 1 2009


Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 9/4/09


Dan Devine, Mayor

REAL ESTATE SALES CONTRACT

THIS REAL ESTATE SALES CONTRACT (this "Contract") is made effective as of the later of the date signed by Buyer or the date signed by Seller (the "Effective Date") between Community Development Authority of the City of West Allis, a Wisconsin municipal corporation ("Buyer"), and YRC Inc. (successor by merger to Yellow Freight, Inc.), a Delaware corporation ("Seller").

In consideration of the purchase price and mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, Buyer hereby agrees to buy, and Seller hereby agrees to sell, upon the following terms and conditions, the real estate, including all improvements and fixtures thereon, located for street numbering purposes at 11528 West Rogers Street, West Allis, Wisconsin and further described on Exhibit "A" attached hereto (collectively, the "Property"):

1. PURCHASE PRICE. The purchase price for the Property shall be ONE MILLION FOUR HUNDRED TWO THOUSAND NINE HUNDRED DOLLARS (\$1,402,900.00) (the "Purchase Price"), payable at the time of Closing (as defined in Section 8) by applying the Deposit (as defined in Section 2) and Buyer paying the balance by cash, cashier's check, certified check or wire transfer of funds, in each case, paid to the order of Seller.

2. DEPOSIT. Buyer shall deposit with the Escrow Agent (as defined in Section 9) within ten (10) days after the Effective Date, the sum of FIVE THOUSAND DOLLARS (\$5,000.00) (the "Deposit"), which shall be held by the Escrow Agent and shall be applied against the Purchase Price at the Closing.

3. POSSESSION. Possession of the Property shall be given to the Buyer immediately after Closing. Seller shall convey Property in Broom Clean condition free and clear of all non-attached items and debris. Seller to do a walk through inspection of the Property with Buyer no more than 72 hours before Closing, provided however that Buyer must, by written notice, provide the date and time for such walk-through inspection to Seller no less than 72 hours prior to the walk-through. Seller to bear all costs of removal of items found during the walk through and will remove and pay the cost of removal and disposal prior to Closing. Seller shall terminate any security system as of 11:59 PM Milwaukee time on the Closing Date (as defined in Section 8).

4. EVIDENCE OF TITLE.

a. Seller shall obtain and cause to be delivered to Buyer, at Seller's expense, a title insurance commitment issued by Chicago Title Insurance Company or one of its affiliates through the Escrow Agent (the "Commitment"), pursuant to which the title insurance company commits that at the Closing it will issue its owners policy of title insurance ("Buyer's Policy"), insuring fee simple title to the Property to be in Buyer's name in the total amount of the Purchase Price, free and clear of all liens, encumbrances, restrictions and conditions of title except the following (the "Permitted Exceptions"): (1) utility easements for utility service to the Property, (2) zoning ordinances, (3) legal highways abutting the Property, (4) real property taxes (and their lien, if any) which are not delinquent as of Closing, (5) assessments which are not delinquent as of Closing, (6)

rights of way and easements which do not materially adversely affect title to or use of the Property, (7) the standard preprinted exceptions contained in the Commitment and Buyer's Policy, (8) matters which an accurate survey of the Property would disclose, and (9) any other restrictions, easements, encumbrances or other matters which do not materially adversely affect title to or use of the Property. Any liens, encumbrances, restrictions and conditions of title other than the "Permitted Exceptions" are herein referred to as the "Non-Permitted Exceptions".

b. Buyer shall notify Seller in writing of any Non-Permitted Exceptions to which Buyer objects within fifteen (15) days following Buyer's receipt of the Commitment and any survey provided by Seller to Buyer as set forth in Section 7(a) below. If Buyer does not provide Seller with said notice within such fifteen (15) day period, Buyer shall be deemed to have accepted the state of title disclosed in the Commitment and survey and shall have waived any right to object to any exceptions to Seller's title.

c. Seller may, but shall not be obligated to, remove any Non-Permitted Exceptions so objected to by Buyer within thirty (30) days after receipt of Buyer's written notice under Section 4(b). Seller shall not be required to bring any action or proceeding or otherwise incur any expense in order to remove any such Non-Permitted Exception. If Seller is unable to remove any such Non-Permitted Exception within such thirty (30) day period, Seller shall provide written notice of the same to Buyer. Buyer shall have the right to terminate the Contract within thirty (30) days of the receipt of such notice from Seller by providing notice of termination to Seller and the Escrow Agent. In the event Buyer exercises its right to terminate the Contract, the Deposit shall be returned to Buyer forthwith and the parties shall be relieved of any further obligations and/or liabilities hereunder.

5. DEED. Seller shall convey to Buyer fee simple title to the Property by a recordable special warranty deed (the "Special Warranty Deed") in substantially the form attached hereto as Exhibit "B". The parties agree that the Special Warranty Deed shall warrant title against all persons claiming by, through or under Seller, and shall be subject to the Permitted Exceptions and to all NonPermitted Exceptions accepted or deemed accepted by Buyer. Buyer shall pay all costs of recording the Special Warranty Deed and Seller shall pay all transfer taxes. Buyer and Seller shall equally split any escrow or closing fees charged by the title company.

6. REAL ESTATE TAXES AND ASSESSMENTS. Seller shall pay all delinquent real estate taxes, including penalties and interest, and shall pay or credit against the Purchase Price all other real estate taxes which are due and payable on the date of Closing, prorated to that date and computed, if undetermined, on the basis of the last available tax rate valuation as shown on the city tax assessor's or auditor's real estate tax duplicate. Seller shall also pay all outstanding real estate special assessments in full at Closing. The above prorations shall be final.

7. INSPECTION AND DUE DILIGENCE.

a. Seller agrees to provide Buyer with a copy of any survey, environmental and geotechnical reports of the Property in Seller's possession. Buyer, at its own

expense, may have any such survey, environmental and geotechnical report updated or may obtain a new survey, environmental and geotechnical reports. Seller grants to Buyer and persons designated by Buyer permission to enter upon the Property in order to make surveys, environmental and geotechnical reports during the Inspection Period (as defined below), including the right to do borings, soil bearing tests and other tests, provided that said surveys, environmental and geotechnical reports shall be so conducted as not to damage the Property and any invasive testing shall be approved in advance by Seller. Buyer hereby agrees to indemnify, defend and hold Seller harmless from and against any and all damages, liens, injuries, actions, claims or costs arising in any manner, directly or indirectly, from Buyer's or its designees' activities on or with respect to the Property or Buyer's breach of confidentiality described herein. Buyer shall (i) keep all information, data and reports concerning or arising from any such tests confidential to the extent permitted by applicable law and shall not disclose or divulge the same to any third party (other than a potential redeveloper and its' lender making a mortgage loan to the redeveloper with respect to the Property) without Seller's prior written consent, which Seller shall grant or deny within ten (10) business days of receiving said notice, and Buyer shall (ii) provide copies of all such information, data and reports to Seller upon written request therefore from Seller. Once the property is closed all reports will become subject to the public records laws of the State of Wisconsin. The repair and indemnity provisions contained in this Section 7(a) shall survive Closing or early termination of this Contract.

b. Buyer shall have seventy five (75) days from the Effective Date within which to conduct the surveys, environmental and geotechnical tests referred to in Section 7(a) and to obtain written evidence of any necessary financing for this purchase from a reputable institutional lender (the "Inspection Period"). In the event that Buyer does not terminate this Contract pursuant to Section 7(c) below, Buyer agrees to accept the Property in its present condition as of the Effective Date. Buyer represents and warrants that it is qualified through experience and training to make such investigation of the condition of the Property, both as to the type of investigation and as to the extent of the investigation, and that if Buyer is not qualified to make such investigation Buyer shall have the investigation made by persons who are so qualified. In purchasing and accepting the Property in its present condition, Buyer represents that it will rely solely upon its own investigation and will not rely upon any investigation or disclosure of Seller regarding the Property.

c. In the event that Buyer determines prior to the end of the Inspection Period that the Property is not suitable for any reason or Buyer fails to obtain written evidence of any necessary financing for this purchase from a reputable institutional lender, Buyer may provide written notice to Seller terminating this Contract, in which event the Deposit shall be returned to Buyer. If Buyer fails to give such notice of termination to Seller prior to the end of the Inspection Period, Buyer shall be deemed to have waived any objection to the Property and to have affirmed this Contract and elected to purchase the Property with no reduction in the Purchase Price.

d. Seller has not made, and shall not be deemed to have made, and Buyer has not relied upon, any representation or warranty, either express or implied, to Buyer, or any person representing Buyer, or any person or entity upon which Buyer relies in

purchasing the Property as to any matter whatsoever concerning the Property except for any representation or warranty expressly set forth in this Contract, Buyer acknowledges that the purchase of the Property by Buyer is on an "AS IS" basis. BUYER EXPRESSLY AGREES TO ACCEPT THE PROPERTY "AS IS" AND "WHERE IS." SELLER SHALL UNDER NO CIRCUMSTANCES BE DEEMED TO HAVE MADE, AND SELLER HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE PROPERTY AND EACH PART THEREOF, ANY ENVIRONMENTAL CONDITION WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF ANY POLLUTANT OR CONTAMINANT, INCLUDING ANY HAZARDOUS SUBSTANCE, IN, ON OR UNDER THE PROPERTY), AND THE ADEQUACY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PROPERTY OR ANY PART THEREOF, SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LIABILITY ARISING OUT OF ANY ENVIRONMENTAL CONDITION WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF ANY POLLUTANT OR CONTAMINANT, INCLUDING ANY HAZARDOUS SUBSTANCE IN, ON, OR UNDER THE PROPERTY).

Seller shall not be obligated to conduct any inquiry or investigation regarding the condition of the Property in connection with this Contract. The provisions of this Section 7 (d) shall survive the delivery and recording of the Special Warranty Deed for record.

8. CLOSING; DEPOSITS INTO ESCROW. This transaction shall be closed and settled and the Special Warranty Deed delivered to Buyer and the Purchase Price paid to Seller (collectively, the "Closing") on a date (the "Closing Date") within Ten (10) days after the end of the Inspection Period as agreed upon by Buyer and Seller, provided Seller shall not be obligated to close without at least three (3) business days notice from Buyer. On or before the Closing Date, Seller shall deposit or cause to be deposited with the Escrow Agent:

- a. The Special Warranty Deed;
- b. A "NonForeign Seller Affidavit" as required by Section 1445 of the Internal Revenue Code of 1986, as amended; and
- c. Such funds and other instruments, in recordable form or otherwise, as may be reasonably required by the Escrow Agent as a condition of the Closing.

On or before the Closing Date, Buyer shall deposit with the Escrow Agent:

- a. The amount of ONE MILLION THREE HUNDRED NINETY SEVEN THOUSAND NINE HUNDRED DOLLARS (\$1,397,900.00), representing the difference between the Purchase Price and the Deposit; and
- b. Such other funds and instruments, in recordable form or otherwise, as may be reasonably required by the Escrow Agent as a condition of the Closing.

9. ACTIONS BY ESCROW AGENT. The following shall act as the escrow agent hereunder (the "Escrow Agent"):

Chicago Title Insurance Company
Attn. Linda Podojil
1360 E. 9th Street
Suite 500
Cleveland, OH 44114
Phone #: 800-336-7172
Fax #: 216-696-8107

This Contract shall serve as escrow instructions to the Escrow Agent, subject to its Standard Conditions of Acceptance of Escrow; provided, however, that this Contract shall govern in the event of any conflict between said Standard Conditions and any of the terms hereof. On the Closing Date, if all the funds and documents set forth in Section 8 have been delivered to the Escrow Agent and if the Escrow Agent or the applicable title company is in a position to issue and will issue Buyer's Policy as described in Section 4, the Escrow Agent shall:

- a. Cause the Special Warranty Deed to be filed for record;
- b. Make separate closing statements for Buyer and Seller showing the obligations of each and the prorations set forth in Section 6, paying all amounts of taxes and assessments which are applicable to the Property and which are due and payable at such time and appropriately charging or crediting the respective accounts of the parties;
- c. Cause the issuance and delivery to Buyer of the Buyer's Policy, as described in Section 4, charging to the account of Buyer the costs of any endorsements or special coverage to the Buyer's Policy;
- d. Charge to the account of Seller the real estate transfer fee, one half of the escrow or closing fees, the premium for the Buyer's Policy as well as all costs related to Buyer's Policy, including, but not limited to fees incurred in the examination, issuance of the Commitment and Buyer's Policy, but specifically excluding any endorsements or special coverages requested by Buyer, and all other sums properly chargeable against Seller hereunder;
- e. Charge to the account of Buyer the cost of recording the Special Warranty Deed, those costs discussed in Section 9(c), one half of the escrow or closing fees, and all other sums properly chargeable against Buyer hereunder; and
- f. Pay to or upon the order of Seller the cash balance of the Purchase Price after deducting all amounts herein required to be paid by Seller, including any broker's commission payable by Seller as provided in Section 11.

The Escrow Agent shall deliver to Seller a copy of the recorded Special Warranty Deed and its escrow statement in duplicate showing all the charges and credits affecting the account of Seller. The Escrow Agent shall deliver to Buyer the recorded Special Warranty Deed; copies of any recorded mortgage deposited by Buyer; Buyer's Policy; the balance, if any, of the funds deposited by Buyer remaining after disbursement in accordance with these directions.

10. DEFAULT; REMEDIES.

a. If, at any time on or before the time of Closing on the Closing Date, Seller shall have failed or refused to perform its obligations hereunder as and when provided in this Contract, then and in any such case Buyer may (A) by written notice furnished to Seller and to the Escrow Agent, terminate this Contract, and in such event the Escrow Agent shall promptly return the Deposit to Buyer, Seller shall pay the expenses of the Escrow Agent (including all title charges) through the date of such termination and Buyer may seek monetary damages for all actual out-of-pocket costs and expenses incurred by Buyer prior to the date of Seller's failure or refusal to perform its obligations under this Contract, or (B) enforce specific performance of Seller's obligations under this Contract.

b. If, at any time on or before the time of Closing on the Closing Date, Buyer shall have failed or refused to perform its obligations hereunder as and when provided in this Contract, then and in any such case Seller may (A) by written notice furnished to Buyer and the Escrow Agent, terminate this Contract, and in such event, the Escrow Agent shall disburse the Deposit to Seller and Buyer shall pay the expenses of the Escrow Agent (including all title charges) through the date of such termination and (B) seek monetary damages for all losses and costs incurred by Seller as a result of Buyer's failure or refusal to perform its obligations under this Contract.

11. BROKER. Buyer warrants and represents to Seller that it has used no broker in connection with this transaction. Seller warrants and represents to Buyer that it has used no broker in connection with this transaction other than Burr & Temkin, whose commission Seller agrees to pay in accordance with a separate agreement, through escrow at Closing. Each party agrees to indemnify and save the other harmless from and against any and all claims for brokerage commissions arising from their respective dealings with any broker other than those identified in this Section 11. The foregoing warranties, representations and indemnities shall survive the delivery and recording of the Special Warranty Deed for record and shall not be merged into said Special Warranty Deed.

12. NOTICES. For the purposes of all notices and communications between the parties, the addresses of Buyer and Seller shall be as follows:

BUYER:

Community Development Authority of the City of West Allis
7525 West Greenfield Avenue
West Allis, WI 53214
Attn. John Stibal
FAX #: (414) 302-8401

SELLER: YRC Inc., (successor by merger to Yellow Freight, Inc.)
C/O YRC North American Transportation Inc.
P. O. Box 471
1077 Gorge Boulevard
Akron, Ohio 44309-0471
Attn: Real Estate and Properties

FAX#: (330) 258-2597

Any notices and other communications to be delivered by either party to the other pursuant to this Contract shall be in writing and shall be deemed delivered as follows, except as otherwise specifically provided in this Contract: (a) when hand delivered or telecopied (provided that telecopied notices must be confirmed within any applicable time period plus two (2) days by one of the following methods of notice); (b) one (1) business day after mailing by Federal Express or other overnight courier service; or (c) upon receipt (or refusal to accept delivery) by United States registered or certified mail, postage prepaid, return receipt requested, in each case addressed to the party to be charged with notice at the above recited address or the above recited facsimile number or such other address or facsimile number as either party from time to time may designate by notice delivered to the other; provided, however, that no notice of change of address or facsimile number shall be deemed given until actually received by the party to be notified. Except as otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

13. NON-ASSIGNMENT BY BUYER. This agreement and the rights granted hereunder are personal unto Buyer and may not be assigned, transferred or conveyed by Buyer in whole or in part without the prior written consent of Seller, which may be withheld by Seller in its sole and absolute discretion. Notwithstanding the foregoing, without Seller's consent Buyer may, by written notice delivered to Seller no later than three (3) business days prior to the Closing Date, designate an individual or entity other than Buyer to take title to the Property pursuant to the Special Warranty Deed, so long as such party taking title agrees to be bound by the provisions of this Contract which survive Closing.

14. SELLER'S CLOSING CONTINGENCY. Notwithstanding any provision to the contrary contained herein, Buyer acknowledges and agrees that Seller's obligation to close the transaction contemplated in this Contract is subject to Seller obtaining any required consent, approval, waiver or release from JPMorgan Chase (the "Seller Bank Approvals") and/or Wilmington Trust Company or any other multiemployer fund that agrees or has agreed to permit Seller to defer pension contributions, secured by an interest in the Property (the "Pension Fund Approvals"). In the event Seller has not obtained the Seller Bank Approvals and/or the Pension Fund Approvals on or before the Closing Date (as such date shall be mutually agreed to by Buyer and Seller), Buyer and Seller shall each have the right to terminate this Contract by providing written notice to the other, in which case Escrow Agent shall refund the Deposit to Buyer, and Seller and Buyer shall have no further rights or obligations under this Contract, except those which expressly survive such termination. If Seller terminates this Contract pursuant to this Section 14, Seller shall reimburse Buyer for the out-of-pocket expenses incurred by Buyer in connection with any inspections, up to Fifty Thousand and No/100 Dollars (\$50,000.00) and such other out-of-pocket expenses incurred by Buyer for inspections pre-approved by Seller in writing; provided, however, that Buyer provides documentation reasonably satisfactory to Seller evidencing the nature and amount of all such out-of-pocket expenses.

15. MISCELLANEOUS:

a. This Contract: (i) contains the entire agreement between the parties and no promise, representation, warranty, covenant, agreement, or understanding not specifically set forth in this Contract shall be binding upon either party; (ii) may not be amended, modified, or supplemented in any manner except in writing signed by the parties; (iii) shall be construed and governed under the laws of the state where the Property is located; (iv) shall not be construed more stringently in favor of one party against the other regardless of which party has prepared the same; (v) shall be binding upon, and inure to the benefit of, the parties and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns; (vi) shall not be binding until this Contract shall be executed and delivered by the parties, to each other; and (vii) may be executed in counterparts, each of which shall be deemed an original, but which all together constitute the same instrument.

b. Any person executing this Contract on behalf of a corporation, limited liability company, trust, partnership or other entity represents and warrants that such person is authorized to execute and deliver this Contract on behalf of such entity.

c. The failure of either party to insist upon strict performance of any provision of this Contract shall not be deemed a waiver of any rights or remedies at any other time.

d. The exhibit attached hereto is incorporated herein by this reference.

e. In the event of any conflict between this Contract and an exhibit, the exhibit shall control.

f. Headings are for convenience only and are not a part of this Contract.

g. The invalidity or unenforceability of any term or provision shall not affect the validity or enforceability of the remainder of this Contract.

h. The parties agree to obtain, execute, deliver, and file such additional documents, instruments, and consents as may be reasonably requested by either party, at the sole cost and expense of the requesting party, in order to fully effectuate the terms and conditions of this Contract.

i. Risk of loss with respect to the Property shall remain with Seller until Closing is completed. Seller shall maintain in full force and effect all of Seller's existing fire and extended coverage insurance on the Property until the Closing Date. Seller's existing insurance policy shall be canceled as of the Closing Date and Buyer shall obtain new insurance at such time. If, prior to the Closing Date, any building or other improvement on the Property is damaged or destroyed by any cause in any amount, Seller shall promptly notify Buyer and Buyer shall have the option to terminate this Contract by notice to Seller (such notice to be given within five (5) days after Buyer is given notice of such damage or destruction) or to proceed with this transaction, in which latter event Buyer shall receive all proceeds of insurance payable by reason of such damage or destruction; provided, however, that if such damage or destruction is in an amount which is equal to or less than twenty-five percent (25%) of the replacement cost of the improvements and fixtures constituting a portion of the Property, Buyer shall not have the

option to terminate this Contract if Seller shall agree in writing to (a) promptly cause such damaged building or improvement to be replaced or restored to the condition it was in prior to such damage or destruction or (b) deliver to Buyer on the Closing Date (or subtract from the Purchase Price an amount equal to the sum of) all proceeds of insurance payable by reason of such damage or destruction together with the additional amount, if any, which is required to replace or restore such damaged building or improvement to the condition it was in prior to such damage or destruction. If Buyer elects to cancel this Contract pursuant to this Section 15(i), Seller shall cause the Escrow Agent to refund the Deposit to Buyer, and neither party shall thereafter have any further rights, duties or liabilities under this Agreement.

j. If, before the Closing Date, all or any material portion of the Property is taken or a proceeding is commenced to take the same by eminent domain or private sale in lieu thereof, Buyer, at its option, may elect either to proceed to Closing or to cancel this Contract. Such election shall be made by written notice from Buyer to Seller given not more than five (5) days after written notice from Seller to Buyer of such condemnation affecting the Property. If Buyer elects to cancel this Contract in such event, Seller shall cause the Escrow Agent to refund the Deposit to Buyer, and neither party shall thereafter have any further rights, duties or liabilities under this Contract. If Buyer elects to proceed to Closing, Seller shall assign to Buyer all of Seller's rights, title and interest in and to any awards that may be payable for such taking.

k. Seller shall, outside of escrow, have the water, sewer, gas, electric and other meters for utility services read out to Seller as of the Closing Date and shall pay for all such utility services up to the Closing Date. Buyer shall pay for all utility services thereafter.

l. Eminent Domain. Buyer and Seller agree that Seller marketed its property as an independent open market transaction, that Buyer did not take, or threaten to take, the property under eminent domain, and that the provisions of Chapter 32 of the Wisconsin Statutes do not apply. Seller expressly waives any right to the procedures and benefits set forth in Wisconsin Chapter 32.

m. The prevailing party in any litigation, arbitration, mediation, bankruptcy, insolvency, or other proceeding ("Proceeding") relating to the enforcement or interpretation of this Contract may recover from the unsuccessful party all costs and expenses relating to or arising out of the Proceeding (excluding, however attorneys' fees incurred in, or related to, the Proceeding), regardless of whether such Proceeding proceeds to final judgment.

16. ACCEPTANCE. In the event this Contract is not signed simultaneously by both parties, it shall be considered to be an offer made to the other party by the party first executing it. In such event, the offer shall automatically expire at 11:59 P.M., Akron, Ohio time, on September 10, 2009, unless one copy of this Contract executed by the party to whom this offer has been made shall have been actually received by the party making the offer, or its attorney, prior to the aforementioned expiration date and time.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Real Estate Sales Contract on the date written below.

Signed by Seller this _____
day of _____, 2009

Signed by Buyer this _____
day of _____, 2009

SELLER:

YRC Inc.,
(successor by merger to Yellow Freight, Inc.)

By: _____
Name: _____
Its: _____

BUYER:

Community Development Authority
of the City of West Allis

By: _____
Name: _____
Its: _____

ESCROW AGENT'S ACKNOWLEDGMENT AND AGREEMENT

Re: Sale by YRC Inc., (successor by merger to Yellow Freight, Inc.) to Community Development Authority of the City of West Allis of property located at 11528 West Rogers Street, West Allis, Wisconsin. The undersigned acknowledges receipt of the Deposit of \$5,000.00 and agrees to act as the Escrow Agent in accordance with the provisions of the foregoing Contract.

Chicago Title Insurance
Company

By: _____

Name: _____

Its: _____

Date: _____

INSTRUCTIONS TO ESCROW AGENT: upon signing the foregoing acknowledgment and agreement, fax a signed copy to:

DAVID LANE
BURR & TEMKIN
PHONE #: (312) 263-2722
FAX #: (312) 263-2726

EXHIBIT "A"

PROPERTY DESCRIPTION

Lot 1 of Certified Survey Map No. 749, recorded on October 19, 1967, on Reel 386, Image 686, as Document No. 4351894, being a part of the Southeast $\frac{1}{4}$ of Section 6, in Township 6 North, Range 21 East, in the City of West Allis, EXCEPTING THEREFROM THE FOLLOWING:

A part of Lot 1, of Certified Survey Map No. 749, being a part of the Southeast $\frac{1}{4}$ of Section 6, in Township 6 North, Range 21 East, in the City of West Allis, to-wit: Beginning at the Northwest corner of said lot; thence North $88^{\circ} 59' 10''$ East along the North line of said Lot, 14.00 feet; thence South $4^{\circ} 15' 19''$ West 130.46 feet to a point which is 3.00 feet east of the West line (measured at right angles) of said Lot; thence South $0^{\circ} 04' 05''$ East 277.00 feet; thence South $89^{\circ} 24' 55''$ West 0.50 feet; thence North $0^{\circ} 35' 05''$ West along the West line of said Lot, 406.88 feet to the point of beginning.

Tax Key #481-9993-010

EXHIBIT "B"

FORM OF SPECIAL WARRANTY DEED

See attached

State Bar of Wisconsin Form 6-2003
SPECIAL WARRANTY DEED

Document Number

Document Name

THIS DEED, made between YRC Inc., f/k/a Roadway Express Inc., a Delaware Corporation

("Grantor," whether one or more), and [REDACTED], LLC, a Wisconsin limited liability company

("Grantee," whether one or more). Grantor for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Sauk County, State of Wisconsin ("Property") (if more space is needed, please attach addendum):

See Attached Exhibit "A"

Recording Area

Name and Return Address

[REDACTED]
 Parcel Identification Number (PIN)

This is not homestead property
 (is) (is not)

Grantor warrants that the title to the Property is good, indefeasible, in fee simple and free and clear of encumbrances arising by, through, or under Grantor, except:
 Municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility, municipal and association services, recorded building and use restrictions and covenants, and general taxes levied in the year of closing.

Dated _____

YRC Inc.

_____(SEAL) _____(SEAL)
 • _____
 • _____(SEAL) _____(SEAL)
 • _____

AUTHENTICATION

ACKNOWLEDGMENT

Signature(s) _____
 authenticated on _____

STATE OF _____)
) ss.
 _____ COUNTY)

Personally came before me on _____,
 the above-named Brad S. Schroeder
 to me known to be the person(s) who executed the foregoing
 instrument and acknowledged the same.

TITLE: MEMBER STATE BAR OF WISCONSIN
 (If not, _____
 authorized by Wis. Stat. § 706.06)

THIS INSTRUMENT DRAFTED BY:

Atty. Erik J. Kanikula
CSI00363

Notary Public, State of _____
 My commission (is permanent) (expires: _____)

(Signatures may be authenticated or acknowledged. Both are not necessary.)

NOTE: THIS IS A STANDARD FORM. ANY MODIFICATION TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.

SPECIAL WARRANTY DEED

STATE BAR OF WISCONSIN

FORM NO. 6-2003

*Type name below signatures

© State Bar of Wisconsin 2003

INFO-PRO™ Legal Forms • (800)655-2071 • info@proforms.com

Delbert Dettmann

To:

From: Janel Lemanske
Sent: Monday, March 15, 2010 11:21 AM
To: Delbert Dettmann
Cc: Darilyn Adams; Patrick Schloss
Subject: R-2009-0197

I'm following up on R-2009-0197. directing the Director of Development to execute the Offer to Purchase for the properties located at 11528 W. Rogers St. and ~~11406 W. Rogers St~~, whether or not signatures have been obtained. If so, please send me the original signed document for the file.

Thank you,
Janel

Signed Copies of Offer

Only one parcel is being acquired @ this time
11528 W. Rogers St.

Del Dettmann

"YRC has Original"

Delbert Dettmann

From: David Lane [lane@burrtemkin.com]
Sent: Thursday, January 07, 2010 2:14 PM
To: Linda Podojil; Delbert Dettmann
Subject: YRC - Rogers Street, West Allis, WI

Linda,

Attached is the fully executed contract for the referenced property. The buyer is affiliated with the City of West Allis where the property is located.

The contract calls for the earnest money to be sent to you.

Please be on the look out and issue a receipt once received and deposited.

Thanks.

David Lane
Burr & Temkin
333 N. Michigan Avenue
Suite 612
Chicago, IL 60601
Office: (312) 263-2722
Cell: (312) 953-4252
Email: lane@burrtemkin.com

Begin forwarded message:

REAL ESTATE SALES CONTRACT

THIS REAL ESTATE SALES CONTRACT (this "Contract") is made effective as of the later of the date signed by Buyer or the date signed by Seller (the "Effective Date") between Community Development Authority of the City of West Allis, a Wisconsin municipal corporation ("Buyer"), and YRC Inc. (successor by merger to Yellow Freight, Inc.), a Delaware corporation ("Seller").

In consideration of the purchase price and mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, Buyer hereby agrees to buy, and Seller hereby agrees to sell, upon the following terms and conditions, the real estate, including all improvements and fixtures thereon, located for street numbering purposes at 11528 West Rogers Street, West Allis, Wisconsin and further described on Exhibit "A" attached hereto (collectively, the "Property"):

1. PURCHASE PRICE. The purchase price for the Property shall be ONE MILLION FOUR HUNDRED TWO THOUSAND NINE HUNDRED DOLLARS (\$1,402,900.00) (the "Purchase Price"), payable at the time of Closing (as defined in Section 8) by applying the Deposit (as defined in Section 2) and Buyer paying the balance by cash, cashier's check, certified check or wire transfer of funds, in each case, paid to the order of Seller.

2. DEPOSIT. Buyer shall deposit with the Escrow Agent (as defined in Section 9) within ten (10) days after the Effective Date, the sum of FIVE THOUSAND DOLLARS (\$5,000.00) (the "Deposit"), which shall be held by the Escrow Agent and shall be applied against the Purchase Price at the Closing.

3. POSSESSION. Possession of the Property shall be given to the Buyer immediately after Closing. Seller shall convey Property in Broom Clean condition free and clear of all non-attached items and debris. Seller to do a walk through inspection of the Property with Buyer no more than 72 hours before Closing, provided however that Buyer must, by written notice, provide the date and time for such walk-through inspection to Seller no less than 72 hours prior to the walk-through. Seller to bear all costs of removal of items found during the walk through and will remove and pay the cost of removal and disposal prior to Closing. Seller shall terminate any security system as of 11:59 PM Milwaukee time on the Closing Date (as defined in Section 8).

4. EVIDENCE OF TITLE.

a. Seller shall obtain and cause to be delivered to Buyer, at Seller's expense, a title insurance commitment issued by Chicago Title Insurance Company or one of its affiliates through the Escrow Agent (the "Commitment"), pursuant to which the title insurance company commits that at the Closing it will issue its owners policy of title insurance ("Buyer's Policy"), insuring fee simple title to the Property to be in Buyer's name in the total amount of the Purchase Price, free and clear of all liens, encumbrances, restrictions and conditions of title except the following (the "Permitted Exceptions"): (1) utility easements for utility service to the Property, (2) zoning ordinances, (3) legal highways abutting the Property, (4) real property taxes (and their lien, if any) which are not delinquent as of Closing, (5) assessments which are not delinquent as of Closing, (6)

rights of way and easements which do not materially adversely affect title to or use of the Property, (7) the standard preprinted exceptions contained in the Commitment and Buyer's Policy, (8) matters which an accurate survey of the Property would disclose, and (9) any other restrictions, easements, encumbrances or other matters which do not materially adversely affect title to or use of the Property. Any liens, encumbrances, restrictions and conditions of title other than the "Permitted Exceptions" are herein referred to as the "Non-Permitted Exceptions".

b. Buyer shall notify Seller in writing of any Non-Permitted Exceptions to which Buyer objects within fifteen (15) days following Buyer's receipt of the Commitment and any survey provided by Seller to Buyer as set forth in Section 7(a) below. If Buyer does not provide Seller with said notice within such fifteen (15) day period, Buyer shall be deemed to have accepted the state of title disclosed in the Commitment and survey and shall have waived any right to object to any exceptions to Seller's title.

c. Seller may, but shall not be obligated to, remove any Non-Permitted Exceptions so objected to by Buyer within thirty (30) days after receipt of Buyer's written notice under Section 4(b). Seller shall not be required to bring any action or proceeding or otherwise incur any expense in order to remove any such Non-Permitted Exception. If Seller is unable to remove any such Non-Permitted Exception within such thirty (30) day period, Seller shall provide written notice of the same to Buyer. Buyer shall have the right to terminate the Contract within thirty (30) days of the receipt of such notice from Seller by providing notice of termination to Seller and the Escrow Agent. In the event Buyer exercises its right to terminate the Contract, the Deposit shall be returned to Buyer forthwith and the parties shall be relieved of any further obligations and/or liabilities hereunder.

5. DEED. Seller shall convey to Buyer fee simple title to the Property by a recordable special warranty deed (the "Special Warranty Deed") in substantially the form attached hereto as Exhibit "B". The parties agree that the Special Warranty Deed shall warrant title against all persons claiming by, through or under Seller, and shall be subject to the Permitted Exceptions and to all NonPermitted Exceptions accepted or deemed accepted by Buyer. Buyer shall pay all costs of recording the Special Warranty Deed and Seller shall pay all transfer taxes. Buyer and Seller shall equally split any escrow or closing fees charged by the title company.

6. REAL ESTATE TAXES AND ASSESSMENTS. Seller shall pay all delinquent real estate taxes, including penalties and interest, and shall pay or credit against the Purchase Price all other real estate taxes which are due and payable on the date of Closing, prorated to that date and computed, if undetermined, on the basis of the last available tax rate valuation as shown on the city tax assessor's or auditor's real estate tax duplicate. Seller shall also pay all outstanding real estate special assessments in full at Closing. The above prorations shall be final.

7. INSPECTION AND DUE DILIGENCE.

a. Seller agrees to provide Buyer with a copy of any survey, environmental and geotechnical reports of the Property in Seller's possession. Buyer, at its own

expense, may have any such survey, environmental and geotechnical report updated or may obtain a new survey, environmental and geotechnical reports. Seller grants to Buyer and persons designated by Buyer permission to enter upon the Property in order to make surveys, environmental and geotechnical reports during the Inspection Period (as defined below), including the right to do borings, soil bearing tests and other tests, provided that said surveys, environmental and geotechnical reports shall be so conducted as not to damage the Property and any invasive testing shall be approved in advance by Seller. Buyer hereby agrees to indemnify, defend and hold Seller harmless from and against any and all damages, liens, injuries, actions, claims or costs arising in any manner, directly or indirectly, from Buyer's or its designees' activities on or with respect to the Property or Buyer's breach of confidentiality described herein. Buyer shall (i) keep all information, data and reports concerning or arising from any such tests confidential to the extent permitted by applicable law and shall not disclose or divulge the same to any third party (other than a potential redeveloper and its' lender making a mortgage loan to the redeveloper with respect to the Property) without Seller's prior written consent, which Seller shall grant or deny within ten (10) business days of receiving said notice, and Buyer shall (ii) provide copies of all such information, data and reports to Seller upon written request therefore from Seller. Once the property is closed all reports will become subject to the public records laws of the State of Wisconsin. The repair and indemnity provisions contained in this Section 7(a) shall survive Closing or early termination of this Contract.

b. Buyer shall have seventy five (75) days from the Effective Date within which to conduct the surveys, environmental and geotechnical tests referred to in Section 7(a) and to obtain written evidence of any necessary financing for this purchase from a reputable institutional lender (the "Inspection Period"). In the event that Buyer does not terminate this Contract pursuant to Section 7(c) below, Buyer agrees to accept the Property in its present condition as of the Effective Date. Buyer represents and warrants that it is qualified through experience and training to make such investigation of the condition of the Property, both as to the type of investigation and as to the extent of the investigation, and that if Buyer is not qualified to make such investigation Buyer shall have the investigation made by persons who are so qualified. In purchasing and accepting the Property in its present condition, Buyer represents that it will rely solely upon its own investigation and will not rely upon any investigation or disclosure of Seller regarding the Property.

c. In the event that Buyer determines prior to the end of the Inspection Period that the Property is not suitable for any reason or Buyer fails to obtain written evidence of any necessary financing for this purchase from a reputable institutional lender, Buyer may provide written notice to Seller terminating this Contract, in which event the Deposit shall be returned to Buyer. If Buyer fails to give such notice of termination to Seller prior to the end of the Inspection Period, Buyer shall be deemed to have waived any objection to the Property and to have affirmed this Contract and elected to purchase the Property with no reduction in the Purchase Price.

d. Seller has not made, and shall not be deemed to have made, and Buyer has not relied upon, any representation or warranty, either express or implied, to Buyer, or any person representing Buyer, or any person or entity upon which Buyer relies in

purchasing the Property as to any matter whatsoever concerning the Property except for any representation or warranty expressly set forth in this Contract, Buyer acknowledges that the purchase of the Property by Buyer is on an "AS IS" basis. BUYER EXPRESSLY AGREES TO ACCEPT THE PROPERTY "AS IS" AND "WHERE IS." SELLER SHALL UNDER NO CIRCUMSTANCES BE DEEMED TO HAVE MADE, AND SELLER HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE PROPERTY AND EACH PART THEREOF, ANY ENVIRONMENTAL CONDITION WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF ANY POLLUTANT OR CONTAMINANT, INCLUDING ANY HAZARDOUS SUBSTANCE, IN, ON OR UNDER THE PROPERTY), AND THE ADEQUACY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PROPERTY OR ANY PART THEREOF, SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LIABILITY ARISING OUT OF ANY ENVIRONMENTAL CONDITION WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF ANY POLLUTANT OR CONTAMINANT, INCLUDING ANY HAZARDOUS SUBSTANCE IN, ON, OR UNDER THE PROPERTY).

Seller shall not be obligated to conduct any inquiry or investigation regarding the condition of the Property in connection with this Contract. The provisions of this Section 7 (d) shall survive the delivery and recording of the Special Warranty Deed for record.

8. CLOSING; DEPOSITS INTO ESCROW. This transaction shall be closed and settled and the Special Warranty Deed delivered to Buyer and the Purchase Price paid to Seller (collectively, the "Closing") on or before ~~December 31, 2009~~^{March 15, 2010}, unless extended by mutual agreement of the parties (the "Closing Date"). On or before the Closing Date, Seller shall deposit or cause to be deposited with the Escrow Agent:

- a. The Special Warranty Deed;
- b. A "NonForeign Seller Affidavit" as required by Section 1445 of the Internal Revenue Code of 1986, as amended; and
- c. Such funds and other instruments, in recordable form or otherwise, as may be reasonably required by the Escrow Agent as a condition of the Closing.

On or before the Closing Date, Buyer shall deposit with the Escrow Agent:

- a. The amount of ONE MILLION THREE HUNDRED NINETY SEVEN THOUSAND NINE HUNDRED DOLLARS (\$1,397,900.00), representing the difference between the Purchase Price and the Deposit; and
- b. Such other funds and instruments, in recordable form or otherwise, as may be reasonably required by the Escrow Agent as a condition of the Closing.

9. ACTIONS BY ESCROW AGENT. The following shall act as the escrow agent hereunder (the "Escrow Agent"):

Chicago Title Insurance Company
Attn. Linda Podojil
1360 E. 9th Street
Suite 500
Cleveland, OH 44114
Phone #: 800-336-7172
Fax #: 216-696-8107

This Contract shall serve as escrow instructions to the Escrow Agent, subject to its Standard Conditions of Acceptance of Escrow; provided, however, that this Contract shall govern in the event of any conflict between said Standard Conditions and any of the terms hereof. On the Closing Date, if all the funds and documents set forth in Section 8 have been delivered to the Escrow Agent and if the Escrow Agent or the applicable title company is in a position to issue and will issue Buyer's Policy as described in Section 4, the Escrow Agent shall:

- a. Cause the Special Warranty Deed to be filed for record;
- b. Make separate closing statements for Buyer and Seller showing the obligations of each and the prorations set forth in Section 6, paying all amounts of taxes and assessments which are applicable to the Property and which are due and payable at such time and appropriately charging or crediting the respective accounts of the parties;
- c. Cause the issuance and delivery to Buyer of the Buyer's Policy, as described in Section 4, charging to the account of Buyer the costs of any endorsements or special coverage to the Buyer's Policy;
- d. Charge to the account of Seller the real estate transfer fee, one half of the escrow or closing fees, the premium for the Buyer's Policy as well as all costs related to Buyer's Policy, including, but not limited to fees incurred in the examination, issuance of the Commitment and Buyer's Policy, but specifically excluding any endorsements or special coverages requested by Buyer, and all other sums properly chargeable against Seller hereunder;
- e. Charge to the account of Buyer the cost of recording the Special Warranty Deed, those costs discussed in Section 9(c), one half of the escrow or closing fees, and all other sums properly chargeable against Buyer hereunder; and
- f. Pay to or upon the order of Seller the cash balance of the Purchase Price after deducting all amounts herein required to be paid by Seller, including any broker's commission payable by Seller as provided in Section 11.

The Escrow Agent shall deliver to Seller a copy of the recorded Special Warranty Deed and its escrow statement in duplicate showing all the charges and credits affecting the account of Seller. The Escrow Agent shall deliver to Buyer the recorded Special Warranty Deed; copies of any recorded mortgage deposited by Buyer; Buyer's Policy; the balance, if any, of the funds deposited by Buyer remaining after disbursement in accordance with these directions.

10. **DEFAULT; REMEDIES.**

a. If, at any time on or before the time of Closing on the Closing Date, Seller shall have failed or refused to perform its obligations hereunder as and when provided in this Contract, then and in any such case Buyer may (A) by written notice furnished to Seller and to the Escrow Agent, terminate this Contract, and in such event the Escrow Agent shall promptly return the Deposit to Buyer, Seller shall pay the expenses of the Escrow Agent (including all title charges) through the date of such termination and Buyer may seek monetary damages for all actual out-of-pocket costs and expenses incurred by Buyer prior to the date of Seller's failure or refusal to perform its obligations under this Contract, or (B) enforce specific performance of Seller's obligations under this Contract.

b. If, at any time on or before the time of Closing on the Closing Date, Buyer shall have failed or refused to perform its obligations hereunder as and when provided in this Contract, then and in any such case Seller may (A) by written notice furnished to Buyer and the Escrow Agent, terminate this Contract, and in such event, the Escrow Agent shall disburse the Deposit to Seller and Buyer shall pay the expenses of the Escrow Agent (including all title charges) through the date of such termination and (B) seek monetary damages for all losses and costs incurred by Seller as a result of Buyer's failure or refusal to perform its obligations under this Contract.

11. **BROKER.** Buyer warrants and represents to Seller that it has used no broker in connection with this transaction. Seller warrants and represents to Buyer that it has used no broker in connection with this transaction other than Burr & Temkin, whose commission Seller agrees to pay in accordance with a separate agreement, through escrow at Closing. Each party agrees to indemnify and save the other harmless from and against any and all claims for brokerage commissions arising from their respective dealings with any broker other than those identified in this Section 11. The foregoing warranties, representations and indemnities shall survive the delivery and recording of the Special Warranty Deed for record and shall not be merged into said Special Warranty Deed.

12. **NOTICES.** For the purposes of all notices and communications between the parties, the addresses of Buyer and Seller shall be as follows:

BUYER:

Community Development Authority of the City of West Allis
7525 West Greenfield Avenue
West Allis, WI 53214
Attn. John Stibal
FAX #: (414) 302-8401

SELLER: YRC Inc., (successor by merger to Yellow Freight, Inc.)
C/O YRC North American Transportation Inc.
P. O. Box 471
1077 Gorge Boulevard
Akron, Ohio 44309-0471
Attn: Real Estate and Properties

FAX#: (330) 258-2597

Any notices and other communications to be delivered by either party to the other pursuant to this Contract shall be in writing and shall be deemed delivered as follows, except as otherwise specifically provided in this Contract: (a) when hand delivered or telecopied (provided that telecopied notices must be confirmed within any applicable time period plus two (2) days by one of the following methods of notice); (b) one (1) business day after mailing by Federal Express or other overnight courier service; or (c) upon receipt (or refusal to accept delivery) by United States registered or certified mail, postage prepaid, return receipt requested, in each case addressed to the party to be charged with notice at the above recited address or the above recited facsimile number or such other address or facsimile number as either party from time to time may designate by notice delivered to the other; provided, however, that no notice of change of address or facsimile number shall be deemed given until actually received by the party to be notified. Except as otherwise specifically provided herein, in the computation of any period of time which shall be required or permitted hereunder or under any law for any notice or other communication or for the performance of any term, condition, covenant or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.

13. NON-ASSIGNMENT BY BUYER. This agreement and the rights granted hereunder are personal unto Buyer and may not be assigned, transferred or conveyed by Buyer in whole or in part without the prior written consent of Seller, which may be withheld by Seller in its sole and absolute discretion. Notwithstanding the foregoing, without Seller's consent Buyer may, by written notice delivered to Seller no later than three (3) business days prior to the Closing Date, designate an individual or entity other than Buyer to take title to the Property pursuant to the Special Warranty Deed, so long as such party taking title agrees to be bound by the provisions of this Contract which survive Closing.

14. SELLER'S CLOSING CONTINGENCY. Notwithstanding any provision to the contrary contained herein, Buyer acknowledges and agrees that Seller's obligation to close the transaction contemplated in this Contract is subject to Seller obtaining any required consent, approval, waiver or release from JPMorgan Chase (the "Seller Bank Approvals") and/or Wilmington Trust Company or any other multiemployer fund that agrees or has agreed to permit Seller to defer pension contributions, secured by an interest in the Property (the "Pension Fund Approvals"). In the event Seller has not obtained the Seller Bank Approvals and/or the Pension Fund Approvals on or before the Closing Date (as such date shall be mutually agreed to by Buyer and Seller), Buyer and Seller shall each have the right to terminate this Contract by providing written notice to the other, in which case Escrow Agent shall refund the Deposit to Buyer, and Seller and Buyer shall have no further rights or obligations under this Contract, except those which expressly survive such termination. If Seller terminates this Contract pursuant to this Section 14, Seller shall reimburse Buyer for the out-of-pocket expenses incurred by Buyer in connection with any inspections, up to Fifty Thousand and No/100 Dollars (\$50,000.00) and such other out-of-pocket expenses incurred by Buyer for inspections pre-approved by Seller in writing; provided, however, that Buyer provides documentation reasonably satisfactory to Seller evidencing the nature and amount of all such out-of-pocket expenses.

15. MISCELLANEOUS:

a. This Contract: (i) contains the entire agreement between the parties and no promise, representation, warranty, covenant, agreement, or understanding not specifically set forth in this Contract shall be binding upon either party; (ii) may not be amended, modified, or supplemented in any manner except in writing signed by the parties; (iii) shall be construed and governed under the laws of the state where the Property is located; (iv) shall not be construed more stringently in favor of one party against the other regardless of which party has prepared the same; (v) shall be binding upon, and inure to the benefit of, the parties and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns; (vi) shall not be binding until this Contract shall be executed and delivered by the parties, to each other; and (vii) may be executed in counterparts, each of which shall be deemed an original, but which all together constitute the same instrument.

b. Any person executing this Contract on behalf of a corporation, limited liability company, trust, partnership or other entity represents and warrants that such person is authorized to execute and deliver this Contract on behalf of such entity.

c. The failure of either party to insist upon strict performance of any provision of this Contract shall not be deemed a waiver of any rights or remedies at any other time.

d. The exhibit attached hereto is incorporated herein by this reference.

e. In the event of any conflict between this Contract and an exhibit, the exhibit shall control.

f. Headings are for convenience only and are not a part of this Contract.

g. The invalidity or unenforceability of any term or provision shall not affect the validity or enforceability of the remainder of this Contract.

h. The parties agree to obtain, execute, deliver, and file such additional documents, instruments, and consents as may be reasonably requested by either party, at the sole cost and expense of the requesting party, in order to fully effectuate the terms and conditions of this Contract.

i. Risk of loss with respect to the Property shall remain with Seller until Closing is completed. Seller shall maintain in full force and effect all of Seller's existing fire and extended coverage insurance on the Property until the Closing Date. Seller's existing insurance policy shall be canceled as of the Closing Date and Buyer shall obtain new insurance at such time. If, prior to the Closing Date, any building or other improvement on the Property is damaged or destroyed by any cause in any amount, Seller shall promptly notify Buyer and Buyer shall have the option to terminate this Contract by notice to Seller (such notice to be given within five (5) days after Buyer is given notice of such damage or destruction) or to proceed with this transaction, in which latter event Buyer shall receive all proceeds of insurance payable by reason of such damage or destruction; provided, however, that if such damage or destruction is in an amount which is equal to or less than twenty-five percent (25%) of the replacement cost of the improvements and fixtures constituting a portion of the Property, Buyer shall not have the

option to terminate this Contract if Seller shall agree in writing to (a) promptly cause such damaged building or improvement to be replaced or restored to the condition it was in prior to such damage or destruction or (b) deliver to Buyer on the Closing Date (or subtract from the Purchase Price an amount equal to the sum of) all proceeds of insurance payable by reason of such damage or destruction together with the additional amount, if any, which is required to replace or restore such damaged building or improvement to the condition it was in prior to such damage or destruction. If Buyer elects to cancel this Contract pursuant to this Section 15(i), Seller shall cause the Escrow Agent to refund the Deposit to Buyer, and neither party shall thereafter have any further rights, duties or liabilities under this Agreement.

j. If, before the Closing Date, all or any material portion of the Property is taken or a proceeding is commenced to take the same by eminent domain or private sale in lieu thereof, Buyer, at its option, may elect either to proceed to Closing or to cancel this Contract. Such election shall be made by written notice from Buyer to Seller given not more than five (5) days after written notice from Seller to Buyer of such condemnation affecting the Property. If Buyer elects to cancel this Contract in such event, Seller shall cause the Escrow Agent to refund the Deposit to Buyer, and neither party shall thereafter have any further rights, duties or liabilities under this Contract. If Buyer elects to proceed to Closing, Seller shall assign to Buyer all of Seller's rights, title and interest in and to any awards that may be payable for such taking.

k. Seller shall, outside of escrow, have the water, sewer, gas, electric and other meters for utility services read out to Seller as of the Closing Date and shall pay for all such utility services up to the Closing Date. Buyer shall pay for all utility services thereafter.

l. **Eminent Domain.** Buyer and Seller agree that Seller marketed its property as an independent open market transaction, that Buyer did not take, or threaten to take, the property under eminent domain, and that the provisions of Chapter 32 of the Wisconsin Statutes do not apply. Seller expressly waives any right to the procedures and benefits set forth in Wisconsin Chapter 32.

m. The prevailing party in any litigation, arbitration, mediation, bankruptcy, insolvency, or other proceeding ("Proceeding") relating to the enforcement or interpretation of this Contract may recover from the unsuccessful party all costs and expenses relating to or arising out of the Proceeding (excluding, however attorneys' fees incurred in, or related to, the Proceeding), regardless of whether such Proceeding proceeds to final judgment.

16. **ACCEPTANCE.** In the event this Contract is not signed simultaneously by both parties, it shall be considered to be an offer made to the other party by the party first executing it. In such event, the offer shall automatically expire at 11:59 P.M., Akron, Ohio time, on December 23, 2009, unless one copy of this Contract executed by the party to whom this offer has been made shall have been actually received by the party making the offer, or its attorney, prior to the aforementioned expiration date and time.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Real Estate Sales Contract on the date written below.

Signed by Seller this 5
day of January, 2009 ~~2010~~

Signed by Buyer this 21
day of December, 2009


SELLER:

YRC Inc.,
(successor by merger to Yellow Freight, Inc.)

By: 
Name: **Brad S. Schroeder**
Its: **Authorized Officer**

BUYER:

Community Development Authority
of the City of West Allis

By: 
Name: ~~Executive~~ John F. Stibal
Its: Executive Director

ESCROW AGENT'S ACKNOWLEDGMENT AND AGREEMENT

Re: Sale by YRC Inc., (successor by merger to Yellow Freight, Inc.) to Community Development Authority of the City of West Allis of property located at 11528 West Rogers Street, West Allis, Wisconsin. The undersigned acknowledges receipt of the Deposit of \$5,000.00 and agrees to act as the Escrow Agent in accordance with the provisions of the foregoing Contract.

Chicago Title Insurance
Company

By: _____
Name: _____
Its: _____
Date: _____

INSTRUCTIONS TO ESCROW AGENT: upon signing the foregoing acknowledgment and agreement, fax a signed copy to:

DAVID LANE
Burr & Temkin
PHONE #: (312) 263-2722
FAX #: (312) 263-2726

ESCROW AGENT'S ACKNOWLEDGMENT AND AGREEMENT

Re: Sale by YRC Inc., (successor by merger to Yellow Freight, Inc.) to Community Development Authority of the City of West Allis of property located at 11528 West Rogers Street, West Allis, Wisconsin. The undersigned acknowledges receipt of the Deposit of \$5,000.00 and agrees to act as the Escrow Agent in accordance with the provisions of the foregoing Contract.

Chicago Title Insurance
Company

By: Linda M. Kadoff

Name: Linda M. Kadoff

Its: Escrow Officer

Date: 1-11-10

INSTRUCTIONS TO ESCROW AGENT: upon signing the foregoing acknowledgment and agreement, fax a signed copy to:

DAVID LANE

BURR & TEMKIN

PHONE #: (312) 263-2722

FAX #: (312) 263-2726

Delbert Dettmann

From: David Lane [lane@burrtemkin.com]
Sent: Tuesday, January 12, 2010 12:41 PM
To: Delbert Dettmann
Subject: Fwd: escrow acknowledge west allis wi

FYI - David

Begin forwarded message:

From: "Podojil, Linda" <Linda.Podojil@CTT.com>
Date: January 11, 2010 2:07:11 PM CST
To: David Lane <lane@burrtemkin.com>
Subject: **FW: escrow acknowledge west allis wi**

Hi David -- for your records!

-----Original Message-----

From: Cleveland Commercial [mailto:ClevelandCommercial@ctt.com]
Sent: Monday, January 11, 2010 3:06 PM
To: Podojil, Linda
Subject: escrow acknowledge west allis wi

This document was digitally sent to you using an HP Digital Sending device.

EXHIBIT "A"

PROPERTY DESCRIPTION

Lot 1 of Certified Survey Map No. 749, recorded on October 19, 1967, on Reel 386, Image 686, as Document No. 4351894, being a part of the Southeast ¼ of Section 6, in Township 6 North, Range 21 East, in the City of West Allis, EXCEPTING THEREFROM THE FOLLOWING:

A part of Lot 1, of Certified Survey Map No. 749, being a part of the Southeast ¼ of Section 6, in Township 6 North, Range 21 East, in the City of West Allis, to-wit: Beginning at the Northwest corner of said lot; thence North 88° 59' 10" East along the North line of said Lot, 14.00 feet; thence South 4° 15' 19" West 130.46 feet to a point which is 3.00 feet east of the West line (measured at right angles) of said Lot; thence South 0° 04' 05" East 277.00 feet; thence South 89° 24' 55" West 0.50 feet; thence North 0° 35' 05" West along the West line of said Lot, 406.88 feet to the point of beginning.

Tax Key #481-9993-010

EXHIBIT "B"

FORM OF SPECIAL WARRANTY DEED

See attached

State Bar of Wisconsin Form 6-2003
SPECIAL WARRANTY DEED

Document Number

Document Name

THIS DEED, made between YRC Inc., f/w/a Roadway Express Inc., a Delaware Corporation

("Grantor," whether one or more), and [REDACTED], LLC, a Wisconsin limited liability company

("Grantee," whether one or more). Grantor for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Sauk County, State of Wisconsin ("Property") (if more space is needed, please attach addendum):

See Attached Exhibit "A"

Recording Area

Name and Return Address

Parcel Identification Number (PIN)

This is not homestead property.
(is) (is not)

Grantor warrants that the title to the Property is good, indefeasible, in fee simple and free and clear of encumbrances arising by, through, or under Grantor, except: Municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility, municipal and association services, recorded building and use restrictions and covenants, and general taxes levied in the year of closing.

Dated _____

YRC Inc.

(SEAL) _____ (SEAL)
BY: Brad S. Schroeder, as Authorized Officer

(SEAL) _____ (SEAL)

AUTHENTICATION

Signature(s) _____
authenticated on _____

ACKNOWLEDGMENT

STATE OF _____)
_____) ss.
COUNTY)

Personally came before me on _____,
the above-named Brad S. Schroeder
to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

TITLE: MEMBER STATE BAR OF WISCONSIN
(If not, _____
authorized by Wis. Stat. § 706.06)

THIS INSTRUMENT DRAFTED BY:

Atty. Erik J. Kanikula
CS100363

Notary Public, State of _____
My commission (is permanent) (expires: _____)

(Signatures may be authenticated or acknowledged. Both are not necessary.)
NOTE: THIS IS A STANDARD FORM. ANY MODIFICATION TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.
SPECIAL WARRANTY DEED STATE BAR OF WISCONSIN FORM No. 6-2003
*Type name below signatures © State Bar of Wisconsin 2003 WFO-PRO™ Legal Forms • (800)556-3071 • wfoforms.com