Form 27
[Rules 6.3 and 10.52(1)]

Clerk's Stamp

COURT FILE NUMBER	1101 - 17318
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, ClB-9 AND IN THE MATTER OF RAILSIDE CAPITAL INC., RAILSIDE INDUSTRIAL PARK INC., FOUNDATION PLACE CAPITAL INC. AND FOUNDATION PLACE INC.
DOCUMENT	**APPLICATION BY ERNST & YOUNG INC.**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP Barristers & Solicitors Sean F. Collins/Walker W. MacLeod Suite 3300, 421 - 7 Avenue S.W. Calgary, AB T2P 4K9 Phone: 403-260-3531/403-260-3710 Fax: 403-260-3501 Email: scollins@mccarthy.ca wmacleod@mccarthy.ca

NOTICE TO RESPONDENT(S):

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: March 6, 2015
Time: 2:00 pm
Where: Calgary Courts Centre
Before Whom: Justice Jeffrey

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought: Ernst & Young Inc. (the "**Monitor**"), in its capacity as court-appointed monitor and co-manager of Railside Capital Inc. ("**Capital**") and Railside Industrial Park Inc. ("**Park**", and Capital and

Park collectively referred to as the "**Debtors**") applies for an Order substantially in the form attached as Schedule "**A**" hereto:

1. Declaring that this Application (the "**Application**") is properly returnable on March 6, 2015 and that the time for service is abridged, if necessary, that service of the Application and the twenty-ninth report of the Monitor, dated February 27, 2015 (the "**Twenty-Ninth Monitor's Report**") on the service list is deemed good and sufficient and validated.

2. Approving the purchase agreement attached as Appendix "**A**" to the Twenty-Ninth Monitor's Report between 1427926 Alberta Inc. or its nominee (the "**Buyer**") and Capital, dated February 19, 2015 (the "**Purchase Agreement**") for the purchase and sale of the Lands (as that term is defined in the Purchase Agreement).

3. Declaring that the Purchase Agreement is commercially reasonable and directing and authorizing the Monitor to execute and deliver the Purchase Agreement to the Buyer, *nunc pro tunc*, and to take such steps as the Monitor determines necessary or advisable to close the transaction for the purchase and sale of the Lands.

4. Authorizing the Monitor and the Buyer to make such amendments or modifications to the Purchase Agreement provided that such amendments or modifications are non-material to the existing terms of the Purchase Agreement.

5. Ordering and declaring that, effective immediately upon the closing of the Purchase Agreement, all legal and beneficial ownership of and title to the Lands shall be irrevocably assigned to and vest absolutely in the Buyer, free and clear of any and all security interests (whether contractual, statutory or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have been attached, registered, perfected or filed and whether secured, unsecured, liquidated, contingent or absolute.

6. Directing the Registrar of Land Titles (the "**Registrar**"), upon being presented with an original letter confirming that all conditions required to permit the registration of the transfer of the Lands (as that term is defined in the Purchase Agreement) have been met, to cancel the existing certificate of title to the Lands and issue a new certificate of title in the name of the Buyer as specifically set out in the letter, free and clear of all encumbrances other than those encumbrances specifically identified in any order made on the Application.

7. Directing the Registrar to perform all actions required of it pursuant to any Order issued on the Application forthwith and notwithstanding the requirements of Section 191(1) of the *Land Titles Act* (Alberta).

8. Requesting that all registries, regulatory bodies and administrative bodies to accept assignments and registrations in respect of the transfer of the Lands and provide assistance to the Monitor, as an officer of the Court, to give effect to any order made on the Application.

9. Granting the Monitor and the Buyer leave to reapply for further directions in respect of any order made on the Application.

10. Discharging the Monitor as the court appointed monitor and co-manager of the Debtors, approving the actions, steps and conduct of the Monitor and the fees and disbursements charged by the Monitor, the Monitor's counsel and the Debtors' counsel over the course of the within proceedings.

11. Such further and other relief as counsel for the Monitor may advise.

Grounds for making this application: The grounds for the Application are as follows:

12. The Debtors obtained protection from their creditors pursuant to an initial order issued under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") on March 21, 2012 (the "**Initial Order**"). The Monitor was appointed as monitor of the Debtors pursuant to the CCAA and the Initial Order. The Lands (held in the name of Park) and a mortgage against the Lands in favour of Capital were the only material assets of the Debtors.

13. On May 10, 2012, the court granted an order expanding the powers of the Monitor and appointing the Monitor as the "co-manager" of the Debtors (the "**Co-Manager Order**").

14. On December 21, 2012, the Court granted an order sanctioning the plan of compromise and arrangement of Capital (the "**Plan**") pursuant to the CCAA (the "**Sanction Order**"). Pursuant to the Plan, Capital foreclosed on and became the registered owner of the Lands.

15. The expanded powers of the Monitor under the Co-Manager Order included the power, *inter alia*, to lead the exit financing process for the Debtors in respect of the Plan. Capital acquired exit financing from the Buyer in early 2013 but such exit financing was insufficient to allow Capital to implement the Plan. The Monitor has been attempting to obtain sufficient exit financing in respect of Capital to allow it to implement the Plan in accordance with the terms of the Co-Manager Order since this time.

16. The Monitor was unable to obtain sufficient amounts of exit financing to allow Capital to implement the Plan. On October 1, 2014, the Court approved a sales process in respect of the Lands (the "**Sales Process**"). The bid deadline in the Sales Process was January 31, 2015, and the Buyer agreed to acquire the Lands by way of a credit bid in the event that no bids were submitted for the Lands that exceeded the obligations owed by Capital to the Buyer at the bid deadline.

17. The Monitor did not receive any bids pursuant to the Sales Process. The Monitor has entered into the Purchase Agreement with the Buyer and seeks approval of same on this application. The disposition of the Lands to the Buyer will conclude the role of the Monitor in these proceedings and it is appropriate for the Monitor to be discharged.

18. Such further and other grounds as counsel for the Monitor may advise.

Material or Evidence to be relied on: The Monitor will rely on the following material:

19. The Twenty-Ninth Monitor's Report.

20. Such further and other material as counsel for the Monitor may advise.

Applicable rules:

21. Rule 6.3 and 11.27 of Rules.

22. Such further and other rules as counsel for the Monitor may advise.

Applicable Acts and regulations:

23. The *Companies' Creditors Arrangement Act* (Canada).

24. Such further and other acts and regulations as counsel for the Monitor may advise.

Any irregularity complained of or objection relied on:

25. There are no irregularities complained of or objections relied on.

How the application is proposed to be heard or considered:

26. The Monitor proposes that the Application be heard in person with one, some or all of the parties present.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

COURT FILE NUMBER	1001-10607	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANTS	IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C 36, AS AMENDED AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, c.B-9 AND IN THE MATTER OF RAILSIDE CAPITAL INC., RAILSIDE INDUSTRIAL PARK INC., FOUNDATION PLACE CAPITAL INC. AND FOUNDATION PLACE INC.	
DOCUMENT	**ORDER (Vesting of Railside Lands and Discharge of Monitor)**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP Barristers & Solicitors Sean F. Collins/Walker W. MacLeod Suite 3300, 421 - 7 Avenue S.W. Calgary, AB T2P 4K9 Phone: 403-260-3531/403-260-3710 Fax: 403-260-3501 Email: scollins@mccarthy.ca wmacleod@mccarthy.ca	

DATE ON WHICH ORDER WAS PRONOUNCED: **March 6, 2015**

NAME OF JUDGE WHO MADE THE ORDER: **Justice Jeffrey**

JUDICIAL DISTRICT WHERE ORDER PRONOUNCED: **Calgary, Alberta**

UPON THE application of Ernst & Young Inc. (the "**Monitor**"), in its capacity as court-appointed monitor and co-manager of Railside Capital Inc. (the "**Capital**") and Railside Industrial Park Inc. ("**Park**", and Capital and Park collectively referred to as the "**Debtors**") pursuant to an initial order granted under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") on March 21, 2012 (the "**Initial Order**"); **AND UPON** noting the order expanding the powers of the Monitor and appointing the Monitor as the "co-manager" of the Debtors on May 12, 2012 (the "**Co-Manager Order**"); **AND UPON** reading the twenty-ninth report of the Monitor, dated February 27, 2015 (the "**Twenty-Ninth Monitor's Report**"); **AND UPON** reading the Affidavit of Service of ●, sworn ●, 2015 (the "**Affidavit of Service**"); **AND UPON** hearing from counsel for the Monitor and counsel for any other persons present; **IT IS HEREBY ORDERED AND DECLARED THAT**:

1. The Application filed in the within proceedings on ● (the “**Application**”) and the Twenty-Ninth Monitor’s Report have been properly and duly served in the manner described in the Affidavit of Service and service of the Application and the Twenty-Ninth Monitor’s Report is validated and deemed good and sufficient as of February 27, 2015.

2. The agreement of purchase agreement attached as Appendix “**A**” to the Twenty-Ninth Monitor’s Report between 1427926 Alberta Inc. or its nominee (the “**Buyer**”) and Capital, dated February 19, 2015 (the “**Purchase Agreement**”) in respect of the lands described in Schedule “**A**” hereto (the “**Lands**”) be and is hereby approved.

3. The Purchase Agreement is declared to be commercially reasonable and the Monitor is authorized and directed, *nunc pro tunc*, to execute and deliver the Purchase Agreement to the Buyer and to take such steps as the Monitor determines necessary or advisable to close the transaction for the transfer and sale of the Lands to the Buyer. Without limiting the generality of the foregoing, the Monitor is specifically authorized and directed to:

(a) Take all steps necessary to effect the transfer of the Lands to the Buyer;

(b) Execute and deliver transfers of the Lands and any other documents or records for and on behalf of Capital; and

(c) Take any steps incidental to these powers to cause the closing of the Lands.

4. The Monitor and the Buyer are authorized to make amendments or modifications to the Purchase Agreement after the issuance of this Order provided that such amendments or modifications are non-material to the existing terms of the Purchase Agreement.

5. Effective immediately upon the closing of the Purchase Agreement, all legal and beneficial ownership of and title to the Lands shall be irrevocably assigned to and vest absolutely to the Buyer, free and clear of any and all security interests (whether contractual, statutory or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have been attached, registered, perfected or filed and whether secured, unsecured, liquidated, contingent or absolute and including, without limitation, any claims arising under the Initial Order or any other order granted in the within proceedings (collectively, the “**Claims**”).

6. The Registrar of Land Titles (the “**Registrar**”) is directed, upon being presented with an original letter confirming that all conditions required to permit the registration of a transfer of the Lands have been met, to

cancel the existing certificate of title to the Lands and issue a new certificate of title in the name of the Buyer as specifically set out in the said letter, free and clear of all encumbrances other than the permitted encumbrances.

7. The Registrar is directed to perform all actions required pursuant to this Order forthwith and notwithstanding the requirements of Section 191(1) of the *Land Titles Act* (Alberta).

8. Upon the closing of the transactions contemplated by the Purchase Agreement, the net remaining cash proceeds from the sale of the Lands (the "**Net Proceeds**") shall stand in place and instead of the Lands and all of the Claims shall attach to the Net Proceeds with the same priority that they had to the Lands immediately prior to the sale of the Lands and the closing of the Purchase Agreement as if the Lands had not been sold and remained in the control and possession of Capital.

9. It is ordered and declared that, notwithstanding the pendency of these proceedings or the provisions of any federal or provincial statute, the vesting provisions made in this Order:

(a) Will not be void or voidable at the instance of creditors and claimants;

(b) Do not constitute and shall not be deemed to constitute fraudulent preferences, fraudulent conveyances, transfers at undervalue or otherwise be subject to challenge under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the *Fraudulent Preferences Act* (Alberta) or any other applicable federal or provincial legislation;

(c) Do not constitute and shall not be deemed to constitute conduct meriting an oppression remedy; and

(d) Shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors pursuant to the BIA.

10. Upon the closing of the Purchase Agreement, the Stay Period (as such term is defined in the Initial Order) shall be terminated in respect of the Debtors, the Monitor shall be discharged as monitor and co-manager of the Debtors and the Monitor shall have no further liabilities, obligations, responsibilities or duties with respect to the Debtor including, without limitation, any duties arising under the CCAA, the Initial Order, the Co-Manager Order or any other order issued in the within proceedings.

11. The incurred and estimated fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Debtors, as summarized at paragraph 25 of the Twenty-Ninth Monitor's Report, be and are hereby approved.

12. This Honourable Court declares that, from and including the date of the Initial Order to the date of the Twenty-Ninth Monitor's Report, and based on the evidence that is currently before this Honourable Court:

(a) the Monitor has exercised its powers and performed its duties and functions, in respect of the Debtors and the Property (as such term is defined in the Initial Order) including but not limited to those under the CCAA, the Initial Order, the Co-Manager Order, the Sanction Order and all other orders issued in the within proceedings, honestly, in good faith and in a commercially reasonable manner;

(b) the actions and conduct of the Monitor are approved and the Monitor has satisfied all of its duties and obligations as monitor and co-manager of the Debtors and the Property;

(c) the Monitor shall not be liable for any act or omission including, without limitation, any act or omission pertaining to the discharge of the Monitor's duties as monitor and co-manager of the Debtors or in respect of the Property, save and except for any liability arising out of fraud, gross negligence or wilful misconduct on the part of the Monitor; and,

(d) any and all claims against the Monitor arising from, relating to, or in connection with, the performance of the Monitor's duties and obligations as monitor and co-manager of the Debtors or in respect of the Property, save and except for claims based on fraud, gross negligence or wilful misconduct on the part of the Monitor, shall be forever barred and extinguished.

13. No action or proceeding arising from, relating to, or in connection with, the performance of the Monitor's duties and obligations as court-appointed monitor and co-manager of the Debtors may be commenced or continued without the prior leave of this Honourable Court, on notice to the Monitor and on such terms as this Honourable Court may direct.

14. Notwithstanding anything contained in this Order, the Monitor is expressly authorized and empowered to perform any further action after its discharge necessary to conclude the administration of the Debtors, including, without limitation, the distribution of the Net Proceeds to the parties entitled thereto.

15. This Court hereby requests all registries, regulatory bodies, administrative bodies, and Land Titles Registries to make or accept such assignments or registrations and to provide such assistance to the Monitor, as an officer of the Court, to give effect to the terms of this Order.

16. The Monitor and the Buyer have leave to reapply to this Court for further directions or Order to give effect to the terms of this Order.

17. Service of this Order by email, facsimile, registered mail, courier or personal delivery to the persons listed on the service list (as may be amended or modified from time to time) shall constitute good and sufficient service of this Order, and no persons other than those listed on the service list are entitled to be served with a copy of this Order.

J.C.Q.B.A.

SCHEDULE "A"

DESCRIPTION OF THE LANDS

Southeast Quarter of Section Thirty Three (33)
Township Forty Seven (47)
Range Twenty Four
West of the Fourth Meridian
Containing 64.7 hectares (160 acres) more or less

Excepting thereout:			Hectares	Acres
A)	The most northerly sixty six (66) feet throughout of the said quarter section for	Roadway	1.62	4
B)	Plan 3446NY	Road	1.84	4.54
C)	Plan 9422421	Road	0.395	0.98
	0.395 Hectares or 0.98 acres			

Excepting thereout all mines and minerals

and

Southwest Quarter of Section Thirty Three (33)
Township Forty Seven (47)
Range Twenty Four
West of the Fourth Meridian
Containing 65.2 hectares (161 acres) more or less

Excepting thereout:			Hectares	Acres
A)	Roadway described in C. of T. 79 – E - 2		1.62	4
B)	Plan 2633KS	Road (Nuisance GR.)	0.837	2.07
		Road (Access)	0.125	0.31
C)	Plan 3446NY	Road	2.04	5.06
D)	Plan 94422421	Road	0.090	0.22

Excepting thereout all mines and minerals