

TAX INCREMENT DISTRICT NO. 8
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is dated as of the 20 day of MAY, 2011 by and between EAGLE FLATS LLC, a Wisconsin limited liability company (the "Developer") and the CITY OF APPLETON, a Wisconsin municipal corporation (the "City").

RECITALS

City and Developer acknowledge the following:

- A. Developer owns the parcel of real property located in the City and described on Exhibits A and B, attached hereto (the "Property"). The Property is comprised of a former industrial site that requires significant infrastructure improvements prior to development.
- B. In 2009 the City created Tax Increment District No. 8 (the "District") pursuant to Section 66.1105, Wis. Stat. (the "Tax Increment Law") and approved a plan for the redevelopment of the District (the "District Plan"). In 2010 the City amended the boundaries and plans for redevelopment of Tax Increment District No. 8 to include the Property within the District.
- C. Subject to obtaining the financial assistance set forth herein, Developer intends to undertake a mixed use development of the Property (the "Development Projects") that will increase its value and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole. The Development Projects are consistent with the District Plan for TIF 8.
- D. The City desires to encourage economic development including the elimination of slum and blight, expand its tax base, and create new jobs within the City, the District and the Property. The City finds that the development of the Property and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and its residents and serve a public purpose in accordance with state and local law.

E. The Development Projects would not occur without the use of Tax Incremental Financing.

F. The City, pursuant to Common Council Action dated March 16, 2011, has approved this Agreement and authorized the execution of the Agreement by the proper City officers on the City's behalf.

G. The Developer has approved this Agreement and authorized Randall Stadtmueller to execute this Agreement on the Developer's behalf.

H. All terms that are in upper case but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

ARTICLE 1
PURPOSES - DEFINITIONS

1.1 Purpose of Agreement. The parties have agreed upon a plan for a mixed use development comprised of residential, office and retail at the Development Area (the "Development"). The purpose of this Agreement is to formalize and record the understandings and undertakings of the parties and to provide a framework within which the redevelopment of the land will take place.

1.2 The terms listed below shall be defined for the purposes of this Agreement as follows:

1.2.1. **City** means the City of Appleton, a Wisconsin Municipal Corporation. The City may also be referred to as the City of Appleton.

1.2.2. **Contribution** means the Tax Increment Revenue Financing payment made to the Developer by the City pursuant to Section 4.4 upon the satisfactory completion, on the part of all parties, of all undertakings as specified in Articles 3 and 4 as related to the different Development Projects in each of the Phases of the Development.

1.2.3. **Development Projects** means the overall construction of the improvements and uses anticipated by the Development Plan and this Agreement for the Development Area.

1.2.4. **Development Area** means the sum of all property described in Exhibits A and B (CSM), and constitutes the total boundaries of the project for which this Agreement is provided.

1.2.5. **Development Plan** means the Development as shown on Exhibits C and D as improved by the site improvements outlined in Exhibits E and F and as further described by this Agreement.

1.2.6. **Developer** means Eagle Flats, LLC, a Wisconsin Limited Liability Company.

1.2.7. **Minimum Total Tax Value** means the minimum Tax Increment Value required for a Development Project to be eligible for a City Contribution.

1.2.8. **Minimum Contribution** means the minimum amount of the Contribution made by the City to a Project.

1.2.9. **Phase 1** means the acquisition of the property, remediation, site preparation work including building demolition, construction of site improvements and development of six Projects as hereinafter described in Section 3.7.

1.2.10. **Phase 2** means the acquisition of the property, remediation, site preparation work including building demolition, construction of site improvements and development of six Projects as hereinafter described in Section 3.7.

1.2.11. **Site Plan** means the specific physical layout of the Development Area as shown on the Development Plan as shown on Exhibits C and D attached hereto.

1.2.12. **Tax Increment Base Value** means the equalized value of Real and Personal Property of the Development Area on January 1, 2011 as certified by the State with the filing of the amendment of Tax Incremental District 8 adding this area.

1.2.13. **Tax Increment Value** means the equalized value above the base established for the Development Project as determined by the City of Appleton assessor. The equalized value is calculated by taking the assessed value reported by the City of Appleton Assessor that is certified by the State Department of Revenue times the aggregate ratio.

1.2.14. **Tax Increment Revenue** means the personal and real property tax revenue (as defined in Section 66.105(2)(i) of the Wisconsin Statutes) generated by the tax increment value generated by a Project.

1.2.15. **Zoning Code** means Chapter 23 of the Code of Ordinances of the City of Appleton. The Zoning Code may also be referred to as the "Code"

ARTICLE 2
DESCRIPTION OF DEVELOPMENT

2.1 Development Area. The Development includes the land area described in full in Exhibits A and B as previously defined in the Agreement as the Development Area. The Development Area will be redeveloped and improved with residential development, commercial/office and retail development, with site improvements as described and depicted in the attached Exhibits C and D, on a timetable and with estimated property valuation as described in the attached Exhibits E and F.

ARTICLE 3
UNDERTAKINGS OF THE DEVELOPER

The Developer agrees that it shall:

3.1. Initiate, or cause to initiate by third parties, Development Projects and complete same in accordance with all applicable City zoning and building codes, fire codes, ordinances and regulations. The general components of the Development Projects and the estimated timetable for completion of each component are set forth on Exhibits E and F, attached hereto. All project costs expended by Developer, after December 15, 2010, including costs incurred before the date of this Agreement, and which are eligible for funding pursuant to §66.1105 of the Wisconsin Statutes, are referred to as

"Developer Costs". Developer Costs shall include, without limitation, costs for the construction of improvements, including hard and soft construction costs, professional fees, architectural fees, construction period interest, civil engineering fees, general contractor fees, infrastructure improvements, environmental remediation costs, demolition, public parking facilities, and the clearing, grading and construction of the Development Projects, and other costs permitted pursuant to Section 66.1105, Wis. Stat.

3.2. Developer warrants and represents to the City that but for the assistance to be provided by the City under Article 4, herein, Developer would not be able to proceed with the Project.

3.3. Developer shall implement the Development Projects in two phases.

3.4. Developer or others shall prepare site plans, specifications, development timetables, and budgets for redevelopment and construction work to be undertaken in Phase 1.

3.5. Developer or others shall prepare site plans, specifications, development timetables, and budgets for redevelopment and construction work to be undertaken in Phase 2.

3.6. Developer has presented an Implementation Plan for the Development Projects which are attached as Exhibits D and E respectively.

3.7. Developer will implement or cause to be implemented Development Projects in the appropriate phases of the Development as provided in Exhibits D and E which will have an estimated Tax Increment Value as follows:

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3.71. Phase 1

<u>Project Name</u>	<u>Building Type</u>	<u>Legal Description</u>	<u>Estimated Increased Tax Increment Value</u>
Riverwalk	Residential	Lot 1 of CSM 6241	\$1,504,000
Landings	Residential	Lot 2 of CSM 6241	\$1,506,000
Commercial 1	Commercial	Lot 3 of CSM 6241	\$1,191,000
Old Office	Commercial	All of Lot Eight (8), Block One (1).....	\$284,000
E. Lawe Mixed	Commercial	Part	\$2,434,000
68 Unit	Residential	Part of Lot 4 of CSM 6241	<u>\$1,504,000</u>
Total			\$8,423,000

3.72. Phase 2

<u>Project Name</u>	<u>Building Type</u>	<u>Legal Description</u>	<u>Increased Tax Increment Value</u>
A	Residential	Lot A, Part of Lot 4 of CSM 6241	\$3,958,000
B	Commercial	Lot B, Part of Lot 4 of CSM 6241	\$1,498,000
C	Commercial	Lot C, Part of Lot 4 of CSM 6241	\$466,000
D	Commercial	Lot D, Part of Lot 4 of CSM 6241	\$3,606,000
E	Commercial	Lot E, Part of Lot 4 of CSM 6241	\$466,000
F	Commercial	Lot F, Part of Lot 4 of CSM 6241	<u>\$2,105,000</u>
Total			\$12,099,000

3.8. The City recognizes that in the current economic environment, approval of a Tax Increment District and approval of a Development Agreement may be necessary prior to the Developer obtaining full financing for this project. For the purpose of facilitating this joint approval process, the City has approved the creation and amendment of Tax Increment District 8, and will approve this Development Agreement with the contingency that prior to the City incurring any obligation to the Developer pursuant to the terms of this Agreement, the Developer shall:

1. Cooperate with the City to facilitate the City's performance under Article 4.

2. Developer shall be responsible for obtaining all permits.

3. The Developer shall be solely responsible for the costs of the installation of streets within the Development as approved by the Plan Commission. City and Developer shall complete a maintenance agreement prior to construction. The Developer shall be solely responsible for complying with the State of Wisconsin's prevailing wage rates where applicable.

4. Developer shall provide to the City's Community Development Director documentation from the Developer's bank and/or other funding sources confirming that the Developer has the ability to permanently finance each project of the development before it commences. No funding shall be released by the City's Finance Director for individual projects until the Finance Department confirms adequate funding has been secured. Financing has been secured for the first two projects – Riverwalk and the Landing.

ARTICLE 4 UNDERTAKINGS OF THE CITY

The City agrees that it shall:

4.1. Appropriate sufficient funds for the performance of its obligations under this Agreement as described in this section.

4.2. City shall cooperate with Developer throughout the implementation of the Development Projects and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances.

4.3. City has created and amended Tax Increment District No. 8 (TID) to support the Development Projects at the Development Area.

4.4. Subject to all of the terms, covenants and conditions of the Agreement and applicable provisions of law, and as inducement by the City to Developer to carry out the Development Projects, the City will provide payments to the Developer to assist with the Developer Costs.

4.41. Developer Costs – Trail Construction: The City shall make a direct contribution to the Developer for the construction of a public trail along the Fox River Navigational System Authority Canal as described in Exhibit G. The City's Contribution shall be contingent upon the execution of an easement granting the City of Appleton and the general public access to the trail. The City's Contribution shall be limited to a maximum of Three Hundred Thousand Dollars (\$300,000) for Trail Construction. The Developer will provide to the City copies of original invoice documentation to support \$300,000.

The Developer shall be solely responsible for complying with the State of Wisconsin's prevailing wage rates where applicable.

The Developer agrees that neither the Development Area nor any portion thereof, shall be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed ethnic origin or identity, color, gender, religion, marital status, age, handicap, or national origin and that construction, redevelopment, improvement, and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination or any of the foregoing grounds.

The Developer shall be responsible for maintenance of the trail pursuant to a maintenance agreement entered into between the Developer and the City of Appleton.

4.42. Developer Costs – Development Projects. Subject to all of the terms, covenants and conditions of the Agreement and applicable provisions of law, and as an inducement by the City to Developer to carry out Development Projects, the City will provide payments to the Developer solely from future tax increments from the Development Area only to assist with Developer Costs. Upon approval of financing as outlined in Paragraph 3.8, TIF eligible expenditures incurred subsequent to December 15, 2010 may be counted as reimbursable expenses. City and Developer agree that there will be no reimbursement for any activities prior to the amendment of the TID. The City's total contribution for Developer Costs shall be limited to a maximum of \$1,560,000 plus interest thereon for the first

phase and \$1,960,000 plus interest thereon for the second phase. The City's total payment to the Developer shall not exceed the lesser of \$3,520,000 plus interest thereon or 80% of the property tax increment attributable to the Development Projects on the Development Area. The City's Contribution may be prepaid at any time; but until paid in full, the payments will be provided to the Developer as follows: Each year over the life of the district, the City will pay to the Developer 80% of the Tax Increment Revenue received by the City with respect to the Development in that year, provided that the Tax Incremental Value of the Development Project also exceeds the minimum value designated in Section 4.421. No payments will be distributed until the property taxes have been paid on the property.

4.421. Phase 1

<u>Project Name</u>	<u>Minimum Total Tax Value</u>
Riverwalk	\$1,200,000
Landings	\$1,200,000
Commercial 1	\$1,200,000
Old Office	\$300,000
E. Lawe Mixed	\$1,500,000
68 Unit	<u>\$1,500,000</u>
Total	\$6,900,000

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4.422. Phase 2

<u>Project Name</u>	<u>Minimum Total Tax Value</u>
A	\$2,000,000
B	\$1,200,000
C	\$300,000
D	\$2,000,000
E	\$300,000
F	<u>\$1,500,000</u>
Total	\$7,300,000

4.5. The Developer shall submit to the City's Director of Community Development copies of original invoice documentation of eligible Developer Costs to support \$1,560,000 for Phase 1 and \$1,960,000 for Phase 2 for documentary support of the City's contribution from Tax Increment Revenue. Developer shall be entitled to interest on the tax contribution for expenses determined by the City to be eligible expenses. Interest on the City's Contribution shall begin to accrue effective on January 1st of the year following approval. The interest rate on the City's Contribution shall be the lesser of 1.) the interest paid by the Developer to any lender, as evidenced by the note indicating the loan amount; or 2.) seven and one-half percent (7½%).

As the sole source for payment of the City Contribution, the City agrees to pay Developer eighty percent (80%) of the property tax increment and Payment in Lieu of Taxes (PILOT) Agreement contributions attributable to the Property by Phase pursuant to this Agreement, based on taxes accrued through a date (the "Expiration Date") which shall be the earliest to occur of: (i) the date on which the City Contribution has been paid in full; or (ii) April 23, 2036.

4.6. Payments pursuant to this Agreement shall be made by August 15 solely from tax increments and PILOT payments attributable to the property actually received by the City. In no event

shall the City's tax incremental payments to the Developer exceed eighty percent (80%) of the tax increment generated by the property limited to a maximum of \$3,520,000 plus interest thereon. The City Contribution, as evidenced by this Agreement, shall be a special and limited obligation of the City and not a general obligation.

4.7. Developer hereby acknowledges that, as a result of the special and limited nature of the City's obligation to pay the City Contribution, Developer's recovery of the full amount of the City Contribution, plus interest thereon, depends on factors including, but not limited to, future mill rates, changes in the assessed value of a Development Project, the failure of the Development Project to generate the Tax Increment Revenue at the rate expected by Developer, reduction in Tax Increment Revenue caused by revenue-sharing, changes in the Tax Increment Law, and other factors beyond the City's and/or Developer's control.

4.8. City covenants to Developer that:

1. City shall not use more than the twenty percent (20%), as previously indicated, for the purposes other than to pay the City Contribution plus the allocable interest thereon.

2. Until the City Contribution plus interest thereon has been paid in full, the City shall not close the District prior to the Expiration Date. Upon the Expiration Date, the City will be entitled to close the District and no liability shall remain from the City to the Developer upon expiration of the District.

ARTICLE 5 TAX STATUS

5.1 As long as the District is in existence, each Development Project including the land and all buildings and improvements thereon shall be owned and taxable for real estate tax, special assessment purposes and personal property taxes. The City may waive the above restriction upon

execution of a payment in lieu of taxes (PILOT) agreement, on a form acceptable to the City, made between the City and the owner or lessee of an exempt Development Project.

ARTICLE 6
NO PARTNERSHIP OR VENTURE

6.1 Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between the City and Developer or any contractor or subcontractor employed by Developer in the construction of the Project.

ARTICLE 7
CONFLICT OF INTEREST

7.1 No member, officer or employee of the City, during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

ARTICLE 8
WATER AND WATER RELATED PUBLIC IMPROVEMENTS

8.1 The City shall furnish water to the boundary of the Development. The City agrees that it shall be responsible for providing and maintaining such water utility improvements to the Development, recouping the costs of the improvements through normal City assessment procedures. The Developer shall be solely responsible for the installation and maintenance of utility improvements to provide water service within the Development and necessary looping as specified by the Department of Public Works. Water service within the Development shall remain a private service. Private hydrants cannot be used for any purposes other than fire protection.

All plans and specifications for the design of the infrastructure and water improvements within the boundaries of the Development shall be subject to the approval of the City's Department of Public Works prior to the beginning of construction. Such approval shall not be unreasonably withheld.

8.2 In instances where this Agreement, or the ordinances of the City or the rules and regulations of the City do not set forth criteria for particular uses for the water supplied to the Development by the City, the criteria for uses may be proposed by Developer subject to the City's approval utilizing generally accepted criteria, which approval shall not be unreasonably withheld.

8.3 The parties agree to cooperate fully in all matters concerning the development of the water system, including, but not limited to, securing of permits, implementation of augmentation plans and acquisition of all rights-of-way and easements necessary for such water service. It is agreed that the obtaining of such rights-of-way and easements outside the boundary of the Development is the responsibility of the City whether by voluntary agreement or condemnation. It is further agreed that the providing of such rights-of-way and easements is the responsibility of the Developer within the boundaries of the Development.

ARTICLE 9 SANITARY SEWER

9.1 The City shall provide sanitary sewer in Olde Oneida Street and South Island Street. The Developer shall be solely responsible for installing and maintaining sanitary sewer infrastructure on the Development including any necessary lift stations, force mains and other improvements from the Development to the City's existing infrastructure. Sanitary sewer service within the Development shall remain a private service. The Developer shall be responsible for providing a lift station(s) that can accommodate the full buildout density of the development.

9.2 Under any of the circumstances set forth herein, the City shall permit the Owner/Developer to connect with the City's sanitary sewer system at such reasonably accessible and economically feasible locations as determined by the City.

9.3 The parties agree to cooperate fully in all matters concerning the development of the sanitary sewer system, including, but not limited to, securing of permits, implementation of

augmentation plans and acquisition of all rights-of-way and easements. It is agreed that the providing of such rights-of-way and easements is the responsibility of the Developer within the Development area.

ARTICLE 10
STORMWATER MANAGEMENT

10.1 The Developer shall follow all applicable State and City Stormwater Ordinances. The Developer shall be solely responsible for installing and maintaining all on-site stormwater management practices. Stormwater management within the Development Area shall remain private.

10.2 Prior to the occupancy of any buildings, the Developer shall provide to the City of Appleton's Department of Public Works an emergency flood plan for the Development Area.

ARTICLE 11
WRITTEN NOTICES

11.1 Any written notice required under this Agreement shall be sent to the following individuals:

FOR THE CITY:

City of Appleton
Community Development Department
100 North Appleton Street
Appleton, WI 54911-4799
Attention: Karen E. Harkness

With a copy to:

City of Appleton
City Attorney's Office
100 North Appleton Street
Appleton, WI 54911-4799
Attn: Attorney James P. Walsh

DEVELOPER:

Eagle Flats LLC
Randall Stadtmueller
P.O. Box 544
Neenah, WI 54957

With a copy to:

Hesson & Birtch
P.O. Box 705
Neenah, WI 54957

ARTICLE 12
ASSIGNMENT

12.1 No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of the other party except as otherwise provided for in this Agreement. Notwithstanding the foregoing, Developer may: (i) assign its rights and obligations under this Agreement to an entity that holds title to the Project and that is controlled by Developer or by one or more of the principals of Developer. The City shall not be bound to any such assignment until it has received written notice.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF APPLETON:

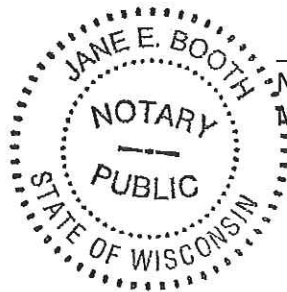
By: [Signature]
Timothy M. Hanna, Mayor

ATTEST:

By: [Signature]
Cynthia I. Hesse, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me this 24 day of May, 2011, Timothy M. Hanna, Mayor and Cynthia I. Hesse, City Clerk, of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.



Jane E. Booth
Notary Public, State of Wisconsin
My commission is/expires: _____

JANE E. BOOTH
Notary Public, State of Wisconsin
My Commission Expires April 7, 2013

APPROVED AS TO FORM:

[Signature]
James P. Walsh, City Attorney
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[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

DEVELOPER:

EAGLE FLATS, LLC

By: _____

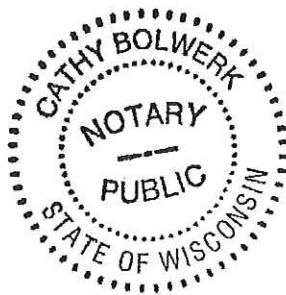
Randall Stadtmueller, Member

STATE OF WISCONSIN)

: ss.

OUTAGAMIE COUNTY)

Personally came before me this 20 day of May, 2011, Randall Stadtmueller, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.



Cathy Bolwerk

Notary Public, State of Wisconsin

My commission is/expires: _____

CATHY BOLWERK

Notary Public, State of Wisconsin

My Commission Expires February 24, 2013

SCHEDULE OF EXHIBITS

- A. Legal Description of the Property Phase 1
- B. Legal Description of the Property Phase 2
- C. Project/Concept Plan Phase 1
- D. Project/Concept Plan Phase 2
- E. Project Timetable Phase 1
- F. Project Timetable Phase 2
- G. Fox River System Navigation Authority Canal Trail

Exhibit A Land Owned by Developer

Phase 1

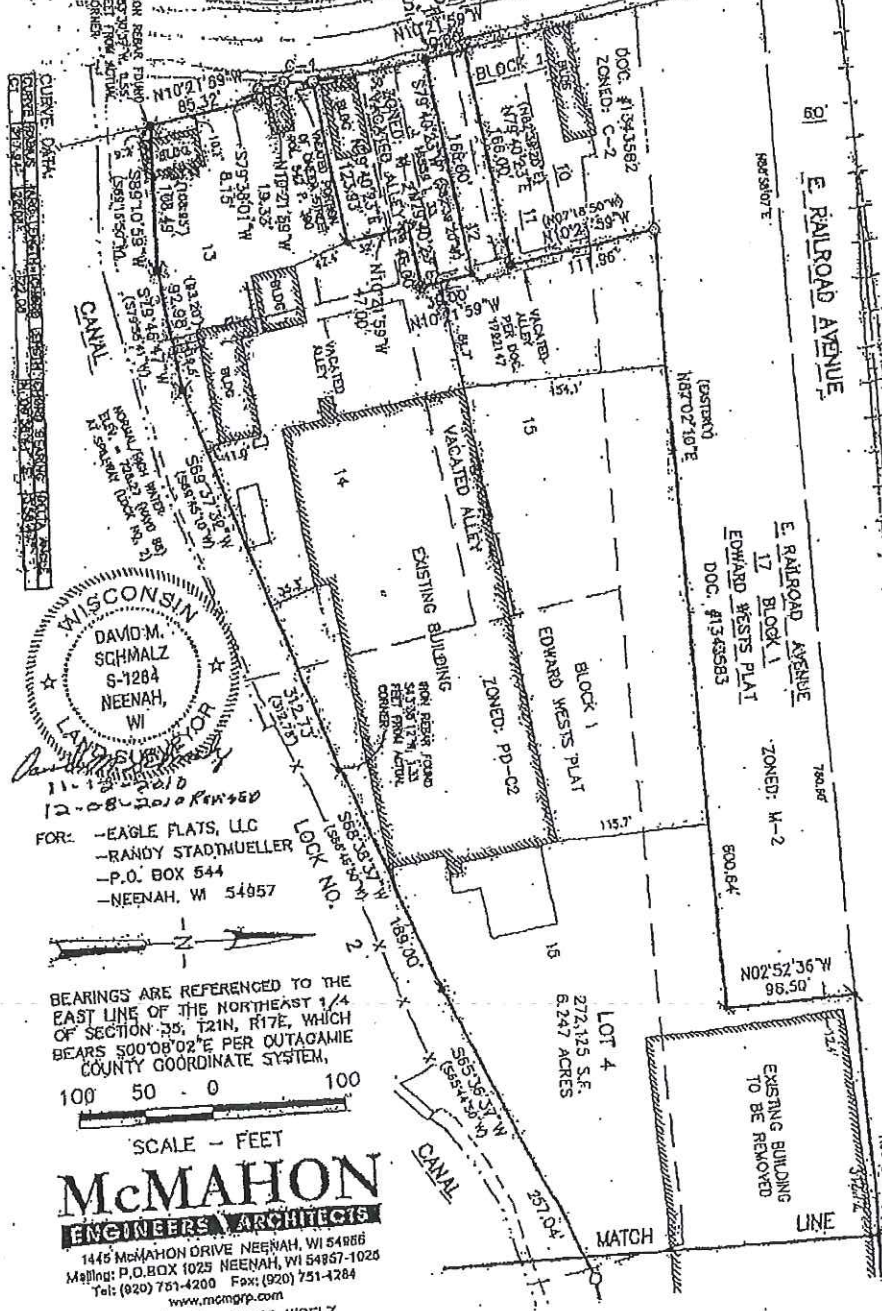
CSM and the Descriptions

Document Number 1498536 Filed this 28 day of December, 2010 at 3:27 PM
 in Volume 38 of Certified Survey Maps on page 6241 being Certified Survey Map
 Number 6241. *Janice Letz, Registered of Deeds*
 Page 6241 (Five Pages)

- LEGEND**
- - 3/4" x 24" ROUND IRON REBAR WEIGHING 1.5 lbs./lineal ft. SET
 - 3/4" ROUND STEEL REBAR FOUND
 - - 1.315" o.d. IRON PIPE FOUND
 - () - RECORDED BEARING AND/OR DISTANCE
 - S.F. - SQUARE FEET
 - - CERTIFIED LAND CORNER OUTAGAMIE COUNTY

- - COMPUTED LOCATION CORNER AT/OR IN BUILDING; MARKER TO BE SET AFTER BUILDING IS REMOVED
- ✕ - 3/4" REBAR WITH 2" IDENTIFICATION CAP FOUND
- △ - GEAR NAIL FOUND
- ⊙ - MARKER "X" ON MANHOLE RIM
- ✕ - CHISEL CROSS IN CONCRETE FOUND

CERTIFIED SURVEY MAP NO. 6241
 ALL OF LOT 15 AND A PART OF LOTS 4, 5, 6, 7, 11, 12, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1, EDWARD WEST'S PLAT AND A PART OF VACATED ONIEDA STREET, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

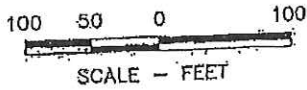


WISCONSIN
 DAVID M. SCHMALZ
 S-1284
 NEENAH, WI
 LAND SURVEYOR
 11-18-2010
 12-08-2010 Renewed
 FOR: -EAGLE FLATS, LLC
 -RANDY STADTMUELLER
 -P.O. BOX 544
 -NEENAH, WI 54957

BEARINGS ARE REFERENCED TO THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 35, T21N, R17E, WHICH BEARS S00°08'02\"/>

SCALE - FEET
McMAHON
ENGINEERS ARCHITECTS
 1446 McMAHON DRIVE NEENAH, WI 54956
 Mail Stop P.O. BOX 1025 NEENAH, WI 54957-1025
 Tel: (920) 751-4200 Fax: (920) 751-4284
 www.mcmgrp.com
 DRAFTED BY: DOUG WOELZ

FOR: -EAGLE FLATS, LLC
 -RANDY STADTMUELLER
 -P.O. BOX 544
 -NEENAH, WI 54957



BEARINGS ARE REFERENCED TO THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 35, T21N, R17E, WHICH BEARS S80°08'02"E PER OUTAGAMIE COUNTY COORDINATE SYSTEM.

WISCONSIN
 DAVID M. SCHMALZ
 G-1284
 NEENAH, WI
 LAND SURVEYOR
 11-12-2010
 12-08-2010 REVISED

LEGEND

- - 3/4" x 24" ROUND IRON REBAR WEIGHING 1.5 lbs./linear ft. SET
- ✕ - 1 1/4" ROUND STEEL REBAR FOUND
- ✕ - 3/4" ROUND STEEL REBAR FOUND
- - 1.315" o.d. IRON PIPE FOUND
- ⊙ - CERTIFIED LAND CORNER OUTAGAMIE COUNTY
- () - RECORDED BEARING AND/OR DISTANCE
- S.F. - SQUARE FEET
- - COMPUTED LOCATION, CORNER AT/OR IN BUILDING, MARKER TO BE SET AFTER BUILDING IS REMOVED
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McMAHON
 ENGINEERS ARCHITECTS

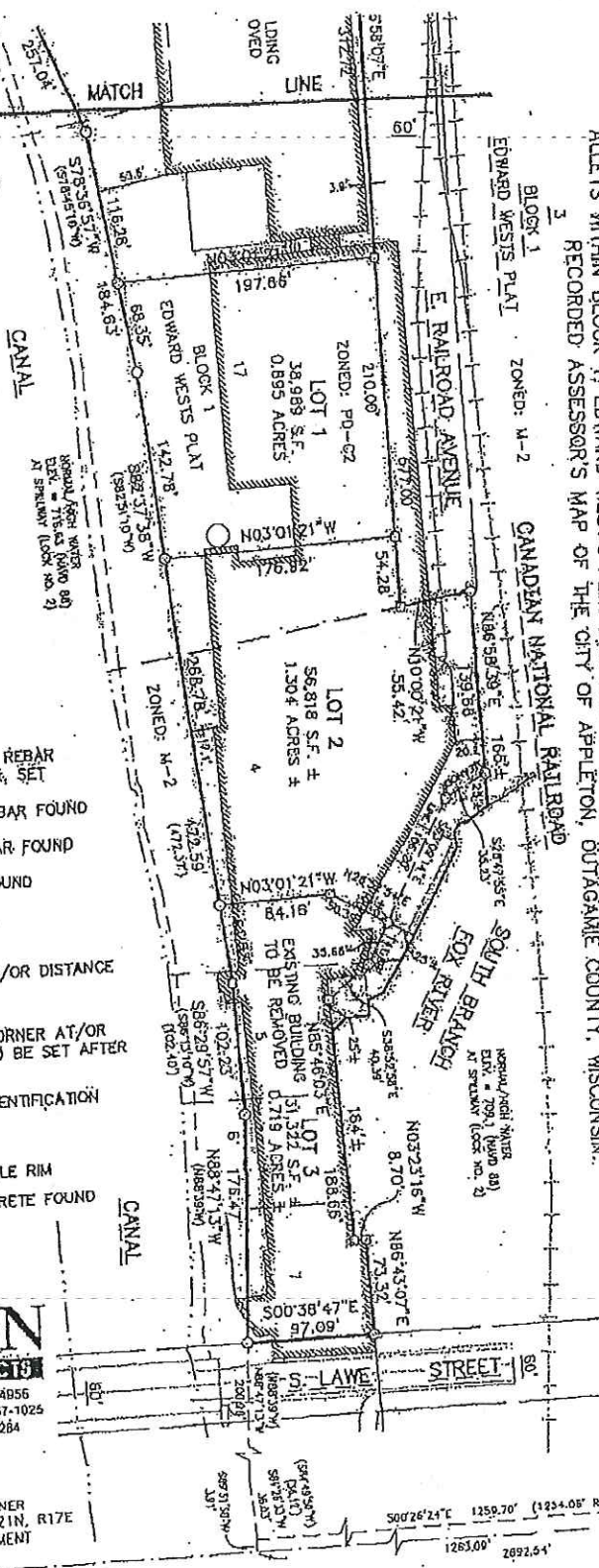
1445 McMAHON DRIVE NEENAH, WI 54956
 Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
 Tel: (920) 751-4200 Fax: (920) 751-4284
 www.mcmgrp.com

DRAFTED BY: DOUG WOELZ

EAST 1/4 CORNER
 SECTION 35, T21N, R17E
 COUNTY MONUMENT

(X-GSM BASE, X-SITE, CITY OF APPLETON, South Island Easement)

CERTIFIED SURVEY MAP NO. 6241
 PAGE 2 OF 5
 SECTION 35, T21N, R17E
 COUNTY MONUMENT
 ALL OF LOT 15 AND A PART OF LOTS 4, 5, 6, 7, 11, 12, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1, EDWARD WEST'S PLAT AND A PART OF VACATED ONEIDA STREET, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



CERTIFIED SURVEY MAP NO. 6241

PAGE 3 OF 5

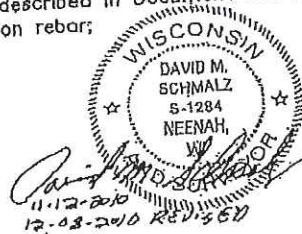
ALL OF LOT 15 AND A PART OF LOTS 4, 5, 6, 7, 11, 12, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1, EDWARD WEST'S PLAT AND A PART OF VACATED ONEIDA STREET, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

I, David M. Schmalz, Wisconsin Registered Land Surveyor S-1284, certify that I have surveyed, divided and mapped all of Lot 15 and a part of Lots 4, 5, 6, 7, 11, 12, 13, 14, 16 and 17, Block 1, and a part of vacated alleys within Block 1, Edward West's Plat and a part of vacated Oneida Street, according to the recorded Assessor's Map of the City of Appleton, Outagamie County, Wisconsin, containing 399,254 square feet (9.165 acres) of land more or less and described as follows:

Commencing at a Barntsen Monument being the present Northeast corner of Section 35 as filed in the office of the Outagamie County Surveyor, Township 21 North, Range 17 East, which bears N72°07'14"E, 11.18 feet from an existing 1" iron pipe which formerly marked the said Northeast corner of Section 35 per a 1899 Survey as noted on the 1983 U.S. Army Corp. of Engineers Survey; Thence S00°08'02"E, 1263.09 feet along the present East line of said Northeast 1/4; Thence S89°51'58"W, 3.91 feet to Point Number 72, as shown on the 1983 U.S. Army Corp. of Engineers Survey; Thence the following eleven (11) calls along the North line of the United States Canal property; Thence S84°26'33"W, 36.03 feet (Recorded as S84°49'50"W, 36.12 feet) along said North line; Thence N88°47'13"W (recorded as N88°39'W), 200.98 feet along said North line to the West right-of-way line of S. Lowe Street and the Point of Beginning; Thence continuing N88°47'13"W (recorded as N88°39'W), 176.47 feet along said North line; Thence S86°29'57"W, 102.23 feet (recorded as S86°13'10"W, 102.40 feet) along said North line; Thence S82°37'38"W, 472.69 feet (recorded as S82°51'10"W, 472.37 feet) along said North line; Thence S78°38'57"W (recorded as S78°45'10"W), 184.63 feet along said North line; Thence S65°36'37"W (recorded as S65°44'50"W), 267.04 feet along said North line; Thence S68°38'37"W (recorded as S68°46'50"W), 189.00 feet along said North line; Thence S69°37'32"W, 312.73 feet (recorded as S69°45'10"W, 312.78 feet), along said North line; Thence S79°46'47"W, 92.98 feet (recorded as S79°55'41"W, 93.20 feet) along said North line; Thence S89°10'59"W, 108.49 feet (recorded as S89°16'50"W, 108.95 feet) to the West line of Lot 13, Block 1 of Edward West's Plat; Thence N10°21'59"W, 85.32 feet along said West line to the vacated portion of South Oneida Street per Resolution recorded in Volume 542 Page 390; Thence S79°38'01"W, 8.15 feet along the South line of said vacated lands; Thence N10°21'59"W, 19.33 feet along the East right-of-way line of S. Olde Oneida Street to a point on the arc of a 317.94 foot radius curve to the left; Thence 22.08 feet along the arc of said curve being the easterly right-of-way line of S. Olde Oneida Street having a 22.08 foot chord which bears N00°38'41"E to the North line of vacated Oneida Street per Volume 542 of deeds on page 390; Thence N79°40'23"E, 123.93 feet along said North line and the South line of the North 32 feet of Lot 13, Block 1 of said Edward West's Plat; Thence N10°21'59"W, 47.00 feet along the East line of the West 120 feet of said Lot 13 and its extension northerly to the centerline of a 30 foot vacated alley per Resolution recorded in Document No. 1792147; Thence N79°40'23"E, 46.00 feet along the centerline of said vacated alley to the centerline of a vacated 12 foot alley per said Resolution recorded as Document No. 1792147; Thence N10°21'59"W, 39.00 feet along the centerline of said vacated alley to the Northeast corner of lands described in Jacket 16539 Image 33; Thence S79°40'23"W (recorded as S82°39'20"W), 166.00 feet along the Northerly line of said described lands to the Easterly right-of-way line of S. Olde Oneida Street; Thence N10°21'59"W, 30.00 feet along said Easterly right-of-way line to the Southwest corner of lands described in Parcel B of Document No. 1343582; Thence N79°40'23"E (recorded as N82°39'20"E), 166.00 feet along the Southerly line of said described lands to the Southeast corner thereof; Thence N10°21'59"W (recorded as N07°18'50"W), 111.96 feet along the Easterly line of lands described in Document No. 1343582 to the Northeast corner thereof; Thence N87°02'10"E (recorded as Easterly), 600.64 feet along the Southerly line of lands described in Document No. 1343583 to the Southeast corner thereof and an existing 3/4" iron rebar;

(Legal Description continued on page 4)



CERTIFIED SURVEY MAP NO. 6241

PAGE 4 OF 5

ALL OF LOT 15 AND A PART OF LOTS 4, 5, 6, 7, 11, 12, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1, EDWARD WEST'S PLAT AND A PART OF VACATED ONEIDA STREET, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

Thence N02°52'36"W, 96.50 feet along the Easterly line of said described lands to the Southerly right-of-way line of East Railroad Avenue, said point bears N86°58'07"E, 780.6 feet from the intersection of the South right-of-way line of East Railroad Avenue with the East right-of-way line of S. Olde Oneida Street; Thence N86°58'07"E, 577.00 feet along the Southerly right-of-way line of East Railroad Avenue to a point 1357.6 feet from intersection of the South right-of-way line of East Railroad Avenue with the East right-of-way line of S. Olde Oneida Street as described in Volume 227 of Deeds on Page 472; Thence N10°00'21"W, 55.42 feet along the Westerly line of Lot 4, Block 1 of Edward West's Plat to the Southerly right-of-way line of the Canadian National Railroad; Thence N86°58'39"E, 139.68 feet along said Southerly right-of-way line to the starting point of a meander line, said point bears S86°58'39"W, 25 feet more or less from the Southwesterly shore of the South Branch of the Fox River; Thence the following three calls along said meander line to the Southwesterly shore of the South Branch of the Fox River; Thence S28°47'55"E, 35.23 feet; Thence S63°09'14"E, 141.86 feet; Thence S38°52'58"E, 40.39 feet to the North wall of an existing building and the termination point of said meander line, said point bears S85°46'03"W, 25 feet more or less from the Southwesterly shore of the South Branch of the Fox River; Thence N85°46'03"E, 188.66 feet along the North line of said existing building wall; Thence N86°43'07"E, 73.32 feet along the North line of said existing building wall to the Westerly right-of-way line of South Lowe Street; Thence S00°38'47"E, 97.09 feet along said Westerly right-of-way line to the Point of Beginning. Including all those lands lying between the above described meander line and the Southwesterly shore of the South Branch of the Fox River and the respective lot line extended to said shore. Subject to all easements and restrictions of record.

I further certify that this map is a correct representation of the exterior boundary lines of the land surveyed and the division of that land, and that I have compiled with section 236.34 of the Wisconsin Statutes, and the City of Appleton Subdivision Ordinance in surveying, dividing and mapping the same.

Given under my hand and seal this 12th day of November, 2010.
12-08-2010 REVISED

David M. Schmalz, Reg. WI Land Surveyor 5-1284



NOTES:

- THIS CERTIFIED SURVEY MAP IS ALL OF TAX PARCEL No. 314028200
- THE PROPERTY OWNER OF RECORD IS: CBC COATING, INC. F/K/A RIVERSIDE PAPER CORPORATION
- THIS CERTIFIED SURVEY MAP IS CONTAINED WHOLLY WITHIN PROPERTY DESCRIBED IN VOLUME 198, DEEDS PAGE 584.

CITY OF APPLETON APPROVAL

Approved by the City of Appleton, Wisconsin, on the 10th day of December, 2010.

Mayor Timothy M. Hanna Date 12/13/10

Clerk Cynthia I. Hesse Date 12/13/2010

CERTIFIED SURVEY MAP NO. 6241

PAGE 5 OF 5

ALL OF LOT 15 AND A PART OF LOTS 4, 5, 6, 7, 11, 12, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1, EDWARD WEST'S PLAT AND A PART OF VACATED ONEIDA STREET, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

OWNER'S CERTIFICATE

CBC Coating, Inc. F/K/A Riverside Paper Corporation, As Owners, We hereby certify that we caused the land described on this map to be surveyed, divided and mapped as represented on this Certified Survey Map. Dated this 23 day of December, 2010.

Authorized Signature
CBC Coating, Inc.
F/N/A Riverside Paper Corp.

Authorized Signature
CBC Coating, Inc.
F/N/A Riverside Paper Corp.

Thomas D. METUIVIE, PRESIDENT
Printed Name

Printed Name

State of Wisconsin)
)ss
Outagamie County)

Personally appeared before me on the 23 day of December, 2010, the above named persons to me known to be the persons who executed the foregoing instrument, and acknowledged the same.

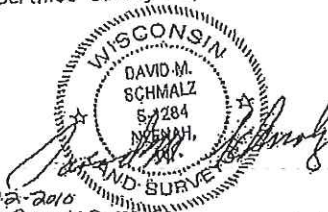
Cherie Astin
Notary Public

Columbet County, WI
My commission expires 9/4/11

CERTIFICATE OF CITY TREASURER

I, being the duly elected, qualified and acting City Treasurer, do hereby certify that in accordance with the records in my office there are no un-paid taxes or un-paid special assessments on any of the lands included in this Certified Survey Map as of:

December 23, 2010
Lisa Remiker 12/23/10
Lisa Remiker (City Treasurer) Date



CERTIFICATE OF COUNTY TREASURER

I, being the duly elected, qualified and acting County Treasurer, do hereby certify that in accordance with the records in my office there are no unredeemed tax sales, un-paid taxes or un-paid special assessments on any of the lands included in this Certified Survey Map as of: 12-28-10

Dina Mumford 12-28-10
County Treasurer Deputy Date
Dina Mumford

Exhibit B Land Owned by Developer

Phase 2

CSM and the Descriptions

Exhibit C

Phase 1 Development Plan

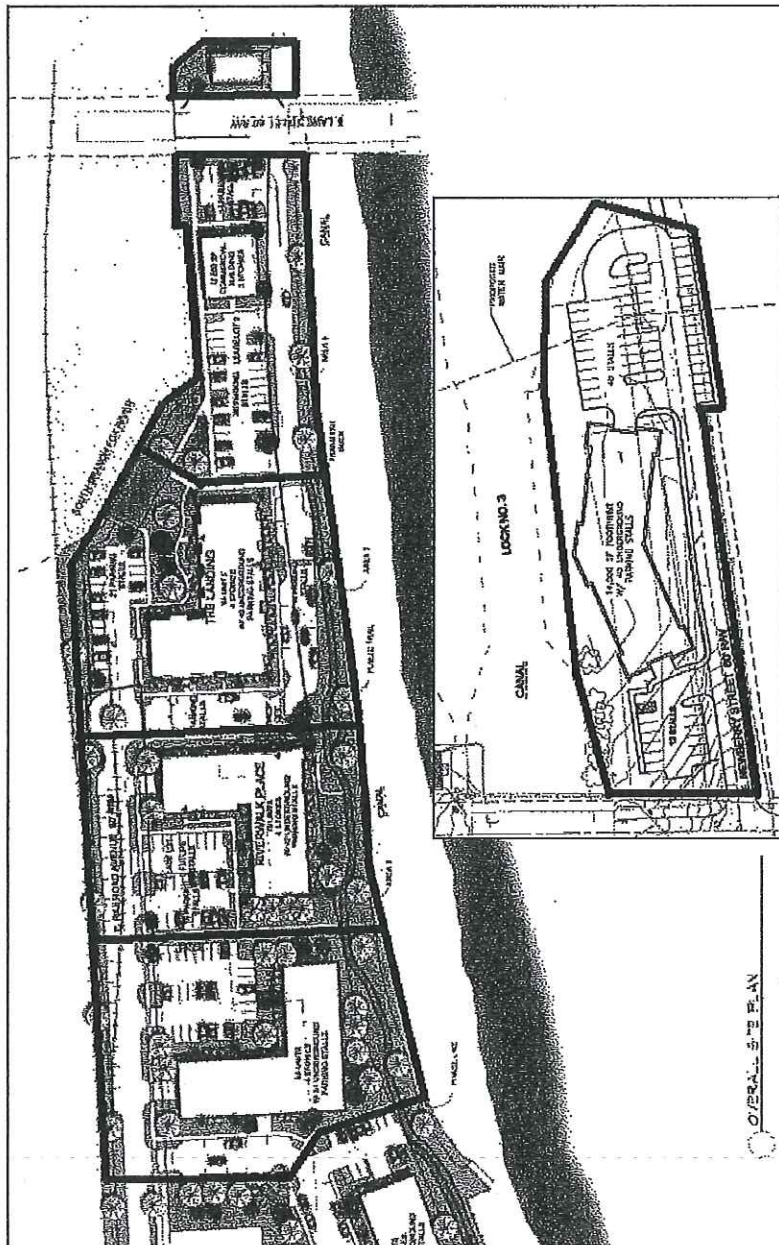


Exhibit D

Phase 2 Development Plan

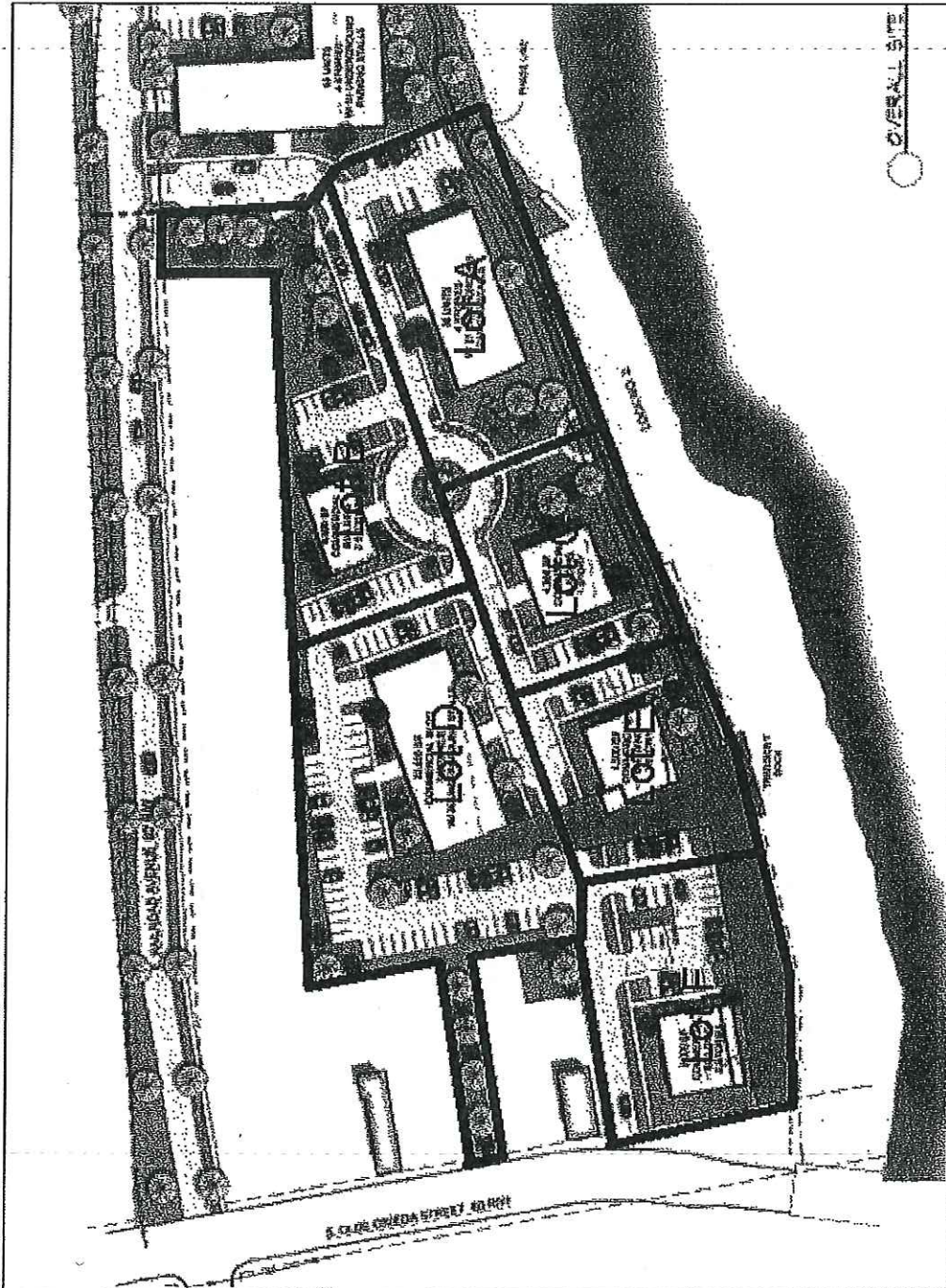


Exhibit E

Development Plan Time Table & Property Valuation

Phase 1

Phase 1	Project 1	Project 2	Project 3	Project 4	Project 5	Project 6	Total
Project	Riverwalk Residential 70 Units	Landings Residential 54 Units	Commercial 1 General Commercial 12000 SF	Old Office General Commercial 3600 SF	E. Lave Mixed Commercial/Visitor 28000 SF	68 Unit Residential 68 Units	
Building Type	Residential	Residential	General Commercial	General Commercial	Commercial/Visitor	Residential	
Building Size (Units or SF)	70 Units	54 Units	12000 SF	3600 SF	28000 SF	68 Units	
Total Construction Cost	\$7,639,902	\$7,629,984	\$960,000	\$288,000	\$2,660,000	\$7,639,902	\$16,817,789
Project Value	\$1,624,212	\$1,625,279	\$1,311,000	\$393,300	\$2,660,000	\$1,624,212	\$9,238,004
Legal Description	Lot 1 of CSM 6241	Lot 2 of CSM 6241	Lot 3 of CSM 6241	Lot 8 Blk 1 Edw West Plat	Part	Part of Lot 4 of CSM 6241	
Start Date	January 1, 2011	January 1, 2011	January 1, 2012	June 1, 2011	January 1, 2013	January 1, 2013	
Completion Date	December 31, 2011	December 31, 2011	December 31, 2012	December 31, 2011	December 31, 2013	December 31, 2013	
Tax Increment Date	January 1, 2012	January 1, 2012	January 1, 2013	January 1, 2012	January 1, 2014	January 1, 2014	
Site Assembly Cost	\$0	\$0	\$0	\$0	\$0	\$350,000	\$350,000
Shoreline & Street Construction	\$97,608	\$115,023	\$57,512	\$22,934	\$75,000	\$106,923	\$475,000
Planning/Design/Marketing	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$150,000
Demolition & Site Reclamation	\$345,000	\$345,000	\$150,000	\$0	\$0	\$100,000	\$940,000
Environmental Remediation	\$50,000	\$50,000	\$25,000	\$0	\$0	\$25,000	\$150,000
Civil Engineering	\$36,603	\$43,134	\$21,567	\$8,600	\$45,000	\$40,096	\$195,000
Utilities	\$100,000	\$100,000	\$35,945	\$14,334	\$50,000	\$66,827	\$367,105
Total	\$654,211	\$678,157	\$315,023	\$70,868	\$195,000	\$713,846	\$2,627,105
Tax Increment Base	\$120,000	\$120,000	\$120,000	\$109,000	\$225,900	\$120,000	\$814,900
Tax Increment Amount 21.50%	\$1,504,212	\$1,505,279	\$1,191,000	\$284,300	\$2,434,100	\$1,504,212	\$8,423,104
TIF Request	\$323,405	\$323,695	\$256,065	\$61,125	\$523,332	\$323,405	\$1,810,967
City of Appleton Trail Investment	\$100,000	\$100,000	\$100,000	\$61,125	\$523,332	\$323,405	\$300,000
DTIF Amount	\$223,405	\$223,695	\$156,065	\$61,125	\$523,332	\$323,405	\$1,510,967

Exhibit F

Development Plan Time Table & Property Valuation

Phase 2

Exhibit F
Development Plan Time Table Property Valuation
Phase 2

Phase 2	Project	Project 2	Project 3	Project 4	Project 5	Project B	Total
Project	LOT A	LOT B	LOT C	LOT D	LOT E	LOT F	
Building Type	Residential	Commercial	Commercial	Commercial	Commercial	Commercial	
Building Size (Units or SF)	36 Units	13,000 SF	4,900 SF	33,600 SF	4,500 SF	18,000 SF	
Total Construction Cost	\$3,876,723	\$1,456,000	\$694,000	\$3,753,200	\$304,600	\$1,980,000	\$11,893,973
Project Value	\$4,037,500	\$1,578,138	\$646,250	\$3,931,697	\$346,250	\$2,165,000	\$12,971,722
Legal Description	PL Lot 4 of CSM 6241	PL Lot 4 of CSM 6241	PL Lot 4 of CSM 6241	PL Lot 4 of CSM 6241	PL Lot 4 of CSM 6241	PL Lot 4 of CSM 6241	
Start Date	January 1, 2015	January 1, 2018	January 1, 2015	January 1, 2016	January 1, 2016	January 1, 2017	
Completion Date	December 31, 2015	December 31, 2019	December 31, 2018	December 31, 2018	December 31, 2016	December 31, 2017	
Tax Increment Date	January 1, 2016	January 1, 2020	January 1, 2018	January 1, 2018	January 1, 2017	January 1, 2016	
Site Assembly Cost	\$174,450	\$189,388	\$118,327	\$273,878	\$116,327	\$149,592	\$1,000,000
Shoeline & Street Construction	\$130,897	\$127,041	\$87,245	\$205,408	\$87,245	\$112,184	\$750,000
Planning Design Marketing	\$26,173	\$25,408	\$17,449	\$41,082	\$17,449	\$22,438	\$150,000
Demolition & Site Reclamation	\$87,245	\$84,894	\$58,163	\$136,939	\$58,163	\$74,788	\$500,000
Environmental Remediation	\$26,173	\$25,408	\$17,449	\$41,082	\$17,449	\$22,438	\$150,000
Civil Engineering	\$26,173	\$25,408	\$17,449	\$41,082	\$17,449	\$22,438	\$150,000
Utilities	\$43,822	\$42,347	\$29,092	\$59,469	\$29,092	\$37,386	\$250,000
Total	\$514,745	\$499,694	\$343,163	\$807,939	\$343,163	\$441,286	\$2,950,000
Tax Increment Base	\$145,483	\$145,483	\$145,483	\$145,483	\$145,483	\$145,483	\$872,900
Tax Increment Amount	\$1,892,017	\$1,432,572	\$400,767	\$3,933,163	\$400,767	\$2,039,517	\$12,096,823
TIF Request	\$791,348	\$591,278	\$81,486	\$799,717	\$81,486	\$414,686	\$2,480,000
City of Appleton Trail Investment	\$0	\$0	\$0	\$0	\$0	\$0	\$0
DF TIF Amount	\$791,348	\$591,278	\$81,486	\$799,717	\$81,486	\$414,686	\$2,480,000

Exhibit G

Fox River Navigational System Authority Canal Trail

FRNSA-2-0406-105
Eagle Flats, LLC

LEASE

1907142

Recorded
April 04, 2011 1:54 PM
OUTAGAMIE COUNTY
JANICE FLENZ
REGISTER OF DEEDS
Fee Amount: \$30.00
Total Pages: 12



THIS LEASE (hereinafter the "Lease") between the **Fox River Navigational System Authority (FRNSA)**, herein after referred to as the Lessor, and **Eagle Flats, LLC**, herein referred to as the Lessee; and

WHEREAS, it is the policy of the Lessor to cooperate with local units of government and private businesses and individuals to provide reasonable and necessary use of lands of the State of Wisconsin; and

WHEREAS, the Fox River Navigational System was formerly owned by the United States Army Corps of Engineers and is now owned by the State of Wisconsin/Lessor; and

WHEREAS, on the 16th of September, 2004, the United States of America transferred the Fox River Navigational System to the State of Wisconsin ("State") subject to easements and restrictions contained in a Quit Claim Deed dated September 2, 2004; and

WHEREAS, on September 17, 2004, the State acting through the Department of Administration entered into a Lease Agreement with the Fox River Navigational System Authority (the "Master Lease Agreement") pursuant to Chapter 237 of the Wisconsin Statutes; and

WHEREAS, the Lessee has requested use of lands which, under the Master Lease Agreement, are controlled by Lessor and located in the City of Appleton, Outagamie County, State of Wisconsin; and

WHEREAS, the City of Appleton has created Tax Increment Financing District # 8 to support the adjacent Eagle Flats redevelopment project (the "Project"); and

WHEREAS, the Lessee has received approval of the City of Appleton zoning application for the adjacent Project; and

WHEREAS, under the Wisconsin Statutes and the Master Lease Agreement, the State must approve the grant of any easement; and

WHEREAS, the State of Wisconsin approved this Lease as indicated in this Lease and has joined in the execution hereof.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises, covenants and conditions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties agree as follows:

1. GRANT OF LEASE: DUTIES OF LESSEE

In consideration of one dollar (\$1.00) along with a single administrative fee payment of Five Hundred dollars (\$500.00) and the covenants herein set forth, the Lessor hereby leases certain real estate located in the City of Appleton, Outagamie County, Wisconsin, and more particularly described in Exhibit A attached hereto (hereinafter referred to as the "Premises") to the Lessee for the

Record and return to:

12

Fox River Navigational System Authority
1008 Augustine Street
Kaukauna, WI 54130
Tax Key No.

construction, use, maintenance, repair and replacement of certain improvements upon the Premises from time to time, such as roadway, parkway, walkway, canal wall, landscaping, utility improvements and short term public boat docks along the shore of the Premises (together, the "Facilities") and to allow public access between the Premises and portions of the Project. The Facilities constructed by Lessee will be owned and maintained by the Lessee subject to the terms of this Lease.

The Authority and the State hereby grant an easement to the Lessee, its contractors, agents, representatives, sublessees, licensees and permittees, until November 1, 2109, over any real estate under the control of the Authority/Lessor or the State, for access to the Premises and use of the Premises and all of the above proposed Facilities as may be constructed thereon from time to time. Such easement shall apply to and encumber such land as may lie adjacent to the Premises or the Project and which is under control of the Authority/Lessor or the State, over or through which access is necessary for the construction, maintenance or use of the Facilities. The parties acknowledge and agree that in the event the term of the Lease is renewed or extended by Lessee, as hereinafter provided, the term of the easement hereby granted shall be extended, automatically and without notice or request by Lessee, for an additional term equal to the term of the renewed or extended Lease.

2. PREMISES

The Premises are identified and/or described in Exhibit A attached hereto.

The Lessee shall construct each of the proposed Facilities as may be approved from time to time by Lessor and shall do so in compliance with and pursuant to all necessary permits and approvals granted by the Wisconsin Department of Natural Resources. Prior to the commencement of construction of any of the proposed Facilities upon the Premises, Lessee shall provide copies of plans therefor to Lessor and obtain the written approval thereof from Lessor. The review and any approval of said plans by Lessor shall be subject to and limited by the applicable provisions of this Lease which appear in Sections 7 and 8, below. The proposed Facilities will cover parts of the Premises described as in Exhibit A.

3. CONSIDERATION

The consideration for this Lease shall be one dollar (\$1.00) and other good and valuable consideration. It is expressly agreed that all parties shall benefit by the entering of this Lease. Acknowledgement of the receipt of any consideration is hereby given.

The Lessee shall pay an administrative fee in the amount of Five Hundred dollars (\$500.00) to cover expenses for the recording of this lease. The administrative fee shall be made payable to Fox River Navigational System Authority, 1008 Augustine Street, Kaukauna, Wisconsin 54130.

Lessee agrees to pay to Lessor without any deduction or offset whatsoever fixed rent (hereinafter referred to as "Fixed Rent") as follows:

- a. The Fixed Rent for the Land improved in Phase 1, as shown in Exhibit A, shall be the sum of \$1,200 annually paid in advance on the date of execution of the Lease and on each anniversary date thereafter.
- b. The Fixed Rent for the Land improved in Phase 2, as shown in Exhibit A, shall be the sum of \$100 annually paid in advance on the date of execution of the Lease and on each anniversary date thereafter. The Fixed Rent for the Land improved in Phase 2 shall be adjusted upon the approval of the improvements by Lessor, as provided herein in Section 2, based on the predominant use of the Land.

The predominant use of the premises and the corresponding Annual Fixed Rent shall be reviewed each year on the anniversary date of the Lease and any extension. The Fixed Rent shall be increased or decreased according to the percentage change in the Consumer Price Index (all

products), as reported by the United States Department Of Commerce, for the previous year (the "CPI")

4. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the Lessee, to Eagle Flats, LLC, 820 S. Olde Oneida Street, Appleton, WI 54915, and if to the Lessor, to Fox River Navigational System Authority, 1008 Augustine Street, Kaukauna, Wisconsin 54130, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

5. TERM AND TERMINATION

The term of this agreement shall be from December 1, 2010 through October 31, 2109. Lessee may renew this Lease upon the same terms for an additional term of ninety-eight (98) years, eleven (11) months by providing written notice of such renewal to Lessor in the manner required by this Lease at any time during the final six months of the original term of this Lease.

In the event of a default by Lessee, the Lessor may terminate the lease. The occurrence of any one or more of the following events and the continuation beyond any applicable cure period shall be Events of Default by Lessee under this Lease:

- a. Failure of Lessee to pay rent hereunder on a timely basis, which failure continues for a period of 10 days after written notice to Lessee by Lessor.
- b. Failure of Lessee to observe and perform any covenant, condition, agreement or obligation contained herein (other than the payment of rent) on its part to be performed, which failure continues for a period of more than 30 days after written notice to Lessee by Lessor specifying the nature of the default; provided that such 30 day period shall be extended for a reasonable additional period if, in the reasonable judgement of Lessor, Lessee is diligently pursuing a cure for the default and such default cannot reasonably be cured within a 30 day period.
- c. Default by Lessee after the expiration of any applicable notice and cure period under any loan agreement, promissory note, mortgage or loan document pertaining to the Project and entered into by Lessee, which default continues beyond the applicable period provided for the cure thereof.
- d. Lessee's abandonment of the Premises or Project for a period of 30 days after written notice thereof from Lessor to Lessee specifying the basis for Lessor's claim that an abandonment has taken place; however, surrender of all or any part of the leasehold interest of Lessee to mortgagee or to a permitted assignee or sublessee or such other party or parties succeeding to Lessee's interest hereunder, shall not constitute an abandonment;
- e. The appointment of a receiver to take possession of the Project or of Lessee's interest in the Premises or of Lessee's operations with respect to the Project which is not dismissed, vacated, or otherwise permanently stayed or terminated within 90 days after the assignment, filing, or other initiating event, for any reason, including assignment for the benefit of creditors or voluntary or involuntary bankruptcy proceedings, but not including receivership (i) pursuant to administration of the estate of any deceased or incompetent individual member of Lessee, or (ii) instituted by Lessor, in which case the event of default is not the appointment of a receiver at Lessor's request, but the event justifying

the receivership.

- f. An assignment by Lessee for the benefit of creditors or the filing of a voluntary or involuntary petition by or against Lessee under any law for the purpose of adjudicating Lessee a bankrupt; or for extending time for payment, adjustment, or satisfaction of Lessee's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the involuntary assignment or involuntary proceeding and all consequent orders, adjudications, custodies, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within 90 days after the assignment, filing, or other initiating event.

6. INDEMNITY AND INSURANCE

The Lessee agrees to save, keep harmless, defend, and indemnify the Lessor and all of its officers, employees, and agents against any liability, claims, and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or in any way incident to or arising out of the Lessee's occupancy, use, service, operation, or performance of work in connection with this lease.

The Lessee shall be responsible for obtaining insurance for any and all improvements or structures located on subject property.

The Lessee shall maintain during the term of this Lease and any renewal or extension thereof, and shall require all subcontractors to maintain, worker's compensation insurance as required by the laws of the State of Wisconsin, and any further coverage which may be required by applicable federal law such as Longshoremen's and Harbor Workers Act, Jones Act or Admiralty Act, for all employees engaged in work upon the Premises.

The Lessee shall provide a Certificate of Insurance to the Lessor showing the Lessee is covered for general liability in the amount of five million dollars (\$5,000,000.00) that covers bodily injury and property damage insurance against any claim(s) which might occur during the term of this Lease. General aggregate limits must be considered primary.

The Lessee shall maintain motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out Lessee's obligations under this Lease. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence/combined single limit for motor vehicle liability and property damage.

The Lessor agrees to provide liability protection for its officers, employees and agents while acting within the scope of their employment. The Lessor further agrees to indemnify and hold harmless Eagle Flats, LLC., its directors, officials, agents and employees for any and all liability, including claims, demands, losses, costs, or damages to persons or property arising out of, or in connection with, or occurring in connection with, this Agreement, where such liability is founded upon or grows out of acts or omissions of any of the Lessor's officers, employees or agents while acting within the scope of their employment, where protection is afforded by ss. 893.82 and 895.46(1), of the Wisconsin Statutes. The Lessor shall provide a Certificate of Insurance to the Lessee showing the Lessor is covered for general liability in the amount of five million dollars (\$5,000,000.00). The Lessor shall provide a Certificate of Insurance to the Lessee showing the Lessor is covered for general liability in the amount of five million dollars (\$5,000,000.00) that covers bodily injury and property damage insurance against any claim(s) which might occur during the term of this Lease. General aggregate limits must be considered primary.

LESSEE'S USAGE

The Lessee, alone, shall be responsible for and shall make arrangements to pay promptly all costs associated with the construction of the proposed Facilities and to obtain any necessary permits.

The Lessee shall restore to its original condition any portion of the Premises damaged as a result of the construction or maintenance of the Facilities.

The Lessee shall own the Facilities and shall be entitled to any reclamation of any materials at any time. The Lessee shall cause the construction costs of the Facilities to be paid.

The improvements constituting the Facilities shall be maintained in good repair at the sole expense of the Lessee in accordance with generally prevailing industry standards within the City of Appleton, Wisconsin.

The rights and benefits of Lessee hereunder are intended to accrue to and for the benefit of Lessee, its successors and permitted assigns, and all owners, occupants, lessees and mortgagees of all or any portion of the Project from time to time.

The Lessee shall comply with all applicable federal, state and local statutes, ordinances, regulations, permits, approvals and licenses in its use of the Premises.

The Lessee shall maintain the area in a neat, safe, sanitary, and usable condition, remove litter and waste. The Premises shall be maintained in a manner to achieve safety, preserve and protect property, public health and welfare. Any property of the Lessor (FRNSA/State of Wisconsin) damaged or destroyed by the Lessee incident to the exercise of the rights and privileges herein granted shall be promptly repaired or replaced by the Lessee to a condition at least equal to that in which it existed immediately prior to the occurrence of such damage or destruction, or reimbursements shall be made by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the Lessor.

The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the Premises except as authorized by the Lessor.

The Lessee shall comply with all State of Wisconsin Historical Society guidelines for development of or improvements to the Premises.

The Lessee may post signs and posters upon and along the Premises in order to delineate and locate areas and improvements therein contained without first obtaining Lessor's approval. The Lessee shall not construct or place any structure, improvement or advertising sign or allow or permit such without prior written approval of the Lessor.

This Lease is subject to all existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the Premises.

7. LIMITATIONS ON USAGE

Neither the Lessee, the Authority, nor the State may impose any fee for access to and use of the Facilities.

The Lessee shall maintain access to the Premises at all times for the purpose of movement of lock tenders and for mobilization of canal and lock maintenance equipment and personnel.

The Lessee shall obtain prior written approval from the Lessor for any development and construction of any structure or fence prior to any alteration of the landscape. Such review is required to insure that the Lessee's construction is consistent the purpose and integrity of the Fox River Heritage State Parkway Concept Plan and is not intended as a detailed engineering review. The Lessor (FRNSA/State of Wisconsin) assumes no responsibility or liability for the technical sufficiency of the Lessee's construction. The Lessee is responsible for the clean up of any debris or litter placed on the Premises incident to the exercise of the rights and privileges herein granted to Lessee.

The right is reserved to the Lessor, its officers, agents, and employees to enter upon the Premises at any time and for any purpose necessary or convenient in connection with government purposes; to make inspections, to remove timber or other material, except property of the Lessee, to flood the Premises if part of the canal system, to manipulate the level of the lake or pool in any manner whatsoever and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Lessee shall have no claim for damages on account thereof against the Lessor or any officer, agent, or employee thereof.

Within the limits of their respective legal powers, the parties to this Lease shall protect the Premises against pollution of its air, ground, and water. The Lessee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized. The disposal of any toxic or hazardous materials within the Premises is specifically prohibited. The Lessee shall not discharge waste or otherwise become a public nuisance.

The Lessee shall be responsible for repair, clean up, remediation or detoxification arising out of any hazardous materials brought onto or introduced into the Premises or surrounding areas by Lessee or its employees or agents.

The Lessee will use all reasonable means to protect the environment and natural resources, and where damage nonetheless occurs from activities of the Lessee, the Lessee shall be liable to restore the damaged resources.

The Lessee shall maintain all soil and water conservation structures that may be in existence upon said Premises at the beginning of or that may constructed during the term of this Lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the Premises. Any soil erosion occurring outside the Premises resulting from the activities of the Lessee shall be corrected by the Lessee.

The Lessee shall have the right, at any time, to sublease or assign its interest under this Lease to any sublessee or assignee, provided only with the prior written consent of Lessor, which consent shall not be unreasonably withheld, but no such subleasing or assignment shall relieve Lessee of its obligations and duties under the terms, covenants and conditions of this Lease, including the obligation to pay the Annual Rent.

Any and all improvements to the Premises constructed by Lessee shall be reasonably accessible to persons with physical disabilities.

8. GENERAL

Nothing in this Lease shall be construed in any manner to create the relationship of employer/employee, principal/agent, joint venture, or partners among the parties.

The Lessor shall notify and consult with the Lessee before commencement of navigation system renovation projects undertaken by the Lessor that may impact or interfere with the Lessee's use of the Premises.

9. NONDISCRIMINATION/AFFIRMATIVE ACTION

In connection with the performance of this Lease and pursuant to s. 16.765, *Wis. Stats.*, the Lessee agrees not to discriminate against any employee or applicant for employment because of age, race, religion, sex, physical condition, developmental disability as defined in section 51.01(5), *Wis. Stats.*, sexual orientation as defined in section 111.32 (13m), *Wis. Stats.*, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, other forms of compensation, and selection of training, including apprenticeship. Except with respect to sexual orientation, the Lessee agrees to take affirmative action to ensure equal employment opportunities.

10. GOVERNING LAW

This Lease shall be governed and constructed in accordance with the laws of the State of Wisconsin.

11. WAIVER

No delay or omission by any of the parties hereto to exercise any right or power accruing upon any non-compliance or failed performance by another party under the provisions of this Lease shall impair any such right or power or be construed to be a waiver thereof. A waiver by any of the parties hereto of any of the covenants, conditions, or agreements hereof to be performed by another, shall not be considered to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement contained herein.

12. AMENDMENTS

No agreement or amendment shall be effective to add to, change, modify, waive or discharge this Lease in whole or in part, unless such agreement is in writing and signed by all parties bound hereby.

13. PARTIAL INVALIDITY

If any provisions, or portions thereof, of this Lease or of the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the Lease, or the application of such provision, or portion thereof, to any other persons or circumstances shall not be affected thereby; and each remaining provision of the Lease shall be valid and enforceable to the fullest extent permitted by law.

14. RECORDING; MEMORANDUM OF LEASE

Lessee shall not record this Lease without the written consent of Lessor. However, upon request by either party hereto, Lessor and Lessee shall join in the execution of a memorandum or so-called "short form" of this Lease for the purpose of recordation. Such memorandum or short form lease shall identify the parties, describe the Premises, the salient terms of this Lease and the easement rights herein granted to, *inter alios*, the Lessee and shall incorporate this Lease by reference.

15. TITLE INSURANCE

Prior to the commencement or accrual of any obligations or liabilities of Lessee hereunder, Lessor, at its sole cost and expense, shall furnish to Lessee a pro forma commitment for title insurance covering the Premises and the Land, showing fee and marketable title to be vested in the State and subject only to

the Master Lease to Lessor, and not disclosing any encumbrance rendering the Land or the Premises unusable for Lessee's intended use, which determination shall be made in Lessee's sole discretion. Lessee, may at its election, but at Lessor's cost, obtain such commitment for title insurance. The premium for any policy of title insurance which Lessee elects to obtain shall be Lessee's expense. Lessee's ability to object to any exception to title which may be disclosed in said title commitment shall not be deemed waived, compromised or affected by or on account of any provision of this Lease (including the attachment of a site plan showing purported easements or other encumbrances) or on account of Lessee's opportunity to review any such exceptions prior to execution of this Lease.

IN WITNESS WHEREOF, the said Lessor has caused these presents to be signed this 23 day of MARCH, 2011.

FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

By [Signature]
Printed Name HARLAN KIESOW
Title CEO

EAGLE FLATS, LLC

By [Signature]
Printed Name RANDALL G. SPADTMUELLER
Title MEMBER

STATE OF WISCONSIN)
)ss
OUTAGAMIE COUNTY)

STATE OF WISCONSIN)
)ss
OUTAGAMIE COUNTY)

Personally came before me this 23 day of March 2011, the above-named person(s), to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Personally came before me this 23 day of March 2011, the above-named person(s), to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Signature]
Notary Public, State of Wisconsin
My commission expires 7/8/2012

[Signature]
Notary Public, State of Wisconsin
My commission expires 7/8/2012

ACKNOWLEDGMENT AND CONSENT

The State of Wisconsin, as lessor under that certain Lease Agreement dated September 17, 2004 with the Fox River Navigational System Authority ("FRNSA") as lessee, acting by and through the Department of Administration, hereby acknowledges, consents to and joins in the foregoing grant of leasehold and easement rights by the FRNSA to Eagle Flats, LLC.

WISCONSIN DEPARTMENT OF ADMINISTRATION

By

Printed Name

Title

[Handwritten Signature]
Cynthia A. Archer
Deputy Secretary - Adm.

STATE OF WISCONSIN)

)ss

DANE COUNTY)

Personally came before me this 16th day of March, 2011, the above-named person(s), to me known to be the person who executed the foregoing instrument and acknowledged the same.

[Handwritten Signature]
Notary Public, State of Wisconsin

My commission expires: Permanent

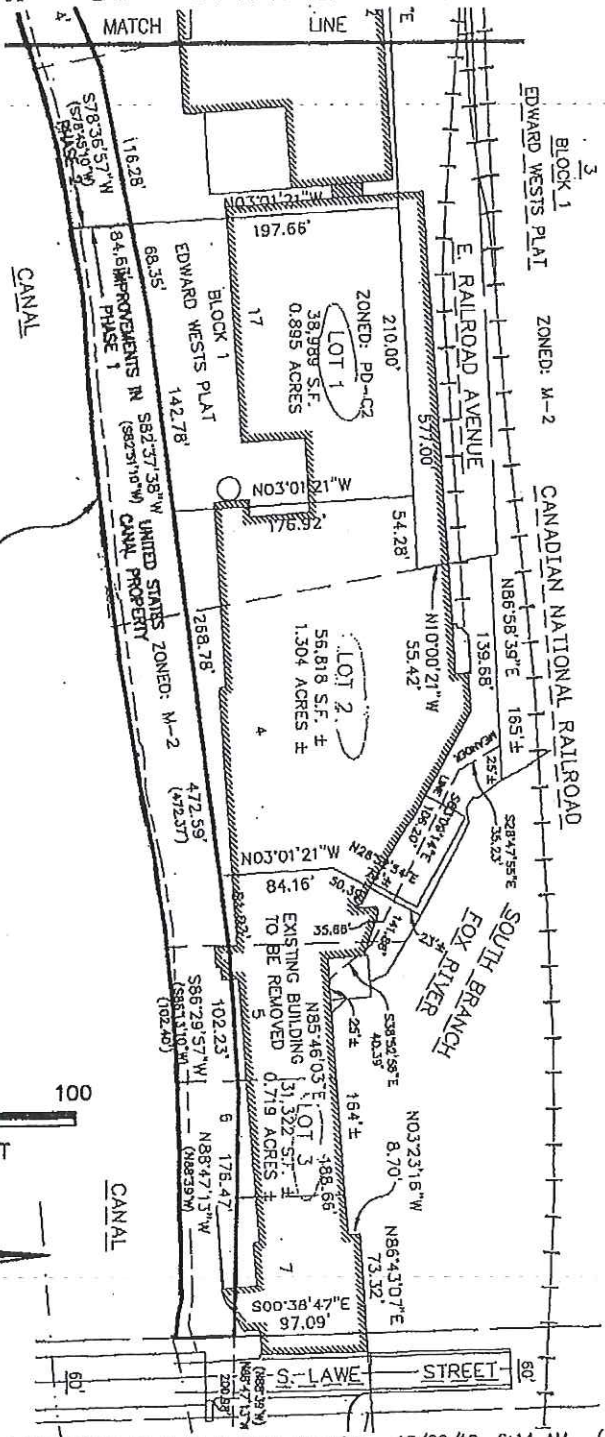
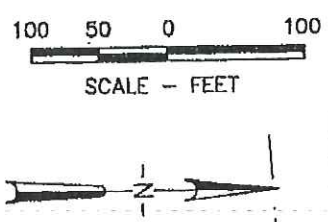
This instrument was drafted by
Harlan P. Kiesow

DECLARATION EXHIBIT A MAP OF CANAL PARCEL

PART OF LOTS 4, 5, 6, 7, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN BLOCK 1,
EDWARD WEST'S PLAT, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE
CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.

PAGE 2 OF 3

A LINE LOCATED ALONG THE
NORTHERLY SHORE OF THE U.S. CANAL
AT AN ELEVATION OF 718.53 PER
NORTH AMERICAN VERTICAL DATUM OF
1988. THIS ELEVATION IS TWO (2) FEET
ABOVE THE NORMAL HIGH WATER LINE
OF THE DOWNSTREAM SIDE OF LOCK
NO. (2) TWC.



REVISED 12-6-10 DEW
dwoelz W:\PROJECTS\E0946\900511\62\02-North Bank Lease Area.dwg 12/09/10 6:14 AM (X-CSM BASE, X-SITE)

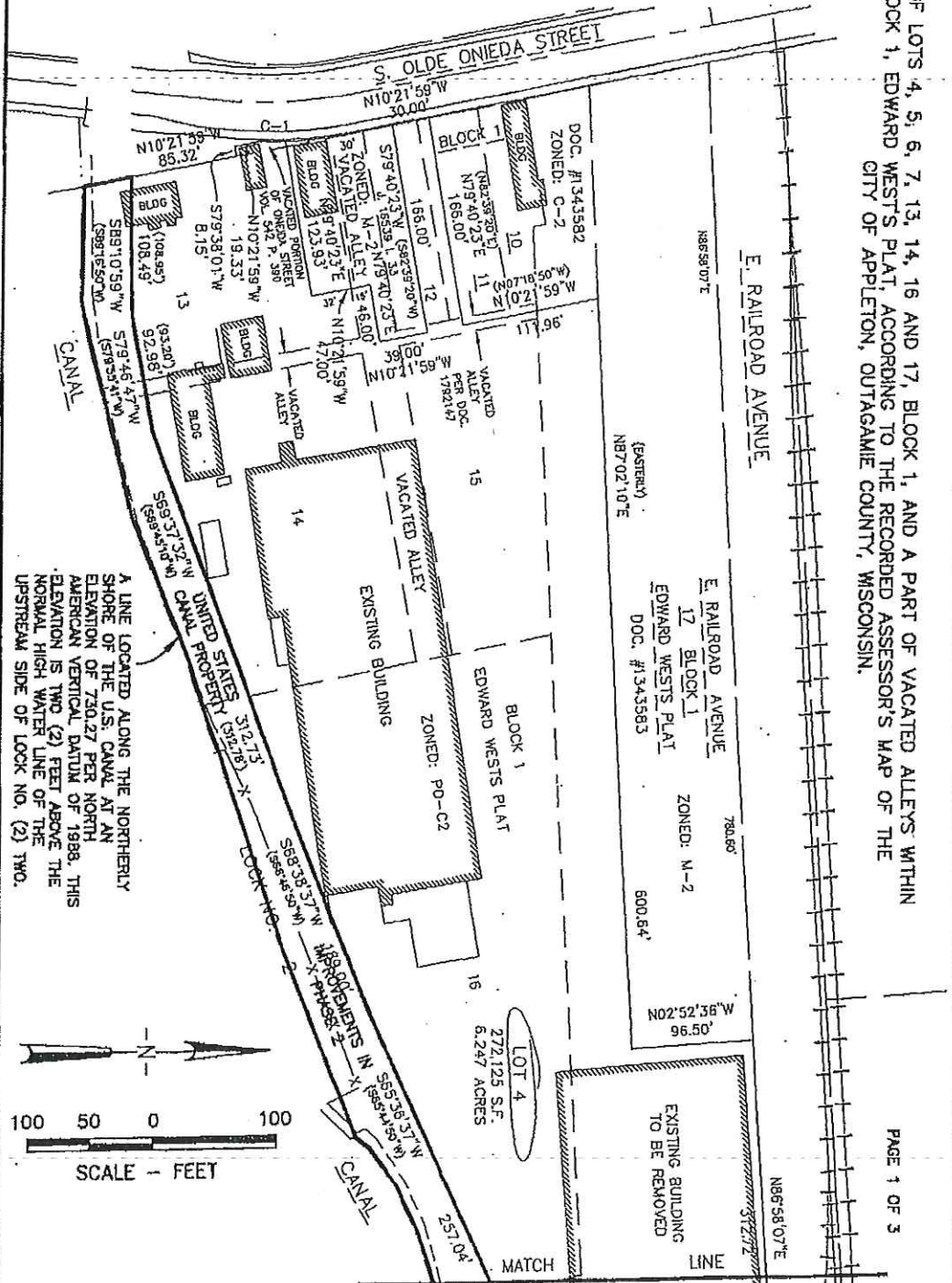
McMAHON
ENGINEERS ARCHITECTS

Project No. E0946 900511.82 Date NOV., 2010 Scale 1"=100'
Drawn By MJA Field Book Page
1445 McMAHON DRIVE NEENAH, WI 54956
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 751-4200 Fax: (920) 751-4284

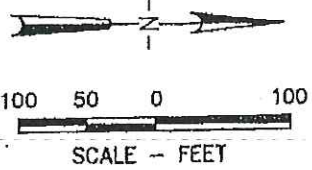
File No.

DECLARATION EXHIBIT A MAP OF CANAL PARCEL

PART OF LOTS 4, 5, 6, 7, 13, 14, 16 AND 17, BLOCK 1, AND A PART OF VACATED ALLEYS WITHIN
BLOCK 1, EDWARD WEST'S PLAT, ACCORDING TO THE RECORDED ASSESSOR'S MAP OF THE
CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN.



A LINE LOCATED ALONG THE NORTHERLY
SHORE OF THE U.S. CANAL AT AN
ELEVATION OF 730.27 PER NORTH
AMERICAN VERTICAL DATUM OF 1988. THIS
ELEVATION IS TWO (2) FEET ABOVE THE
NORMAL HIGH WATER LINE OF THE
UPSTREAM SIDE OF LOCK NO. (2) TWO.



REVISED 12-8-10 DEW
dwoelz W:\PROJECTS\E0946\900511\62\01-North Bank Lease Area.dwg 12/09/10 8:12 AM (X-CSM BASE, X-SITE)

McMAHON
ENGINEERS ARCHITECTS

Project No. E0946 900511.62 Date NOV, 2010 Scale 1"=100'
Drawn By MJA Field Book Page
1445 McMAHON DRIVE NEENAH, WI 54956
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 761-4200 Fax: (920) 761-4284

File No.

DECLARATION EXHIBIT A DESCRIPTION OF CANAL PARCEL

PAGE 3 OF 3

PROPERTY DESCRIPTION:

A part of the United States Canal property located within the Northeast 1/4 of Section 35, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, as bounded on the West by South Olds Oneida Street, on the East by South Lawe Street, on the South by a line located on the Northerly shore of the U.S. Canal at an elevation of 730.27 (NAVD 1988 Datum) that is two (2) feet above the normal high water line of the Upstream side of Canal Lock No. Two (2) including the Lock, and an Elevation of 718.63 (NAVD 1988 Datum) that is two (2) feet above the normal high water line of the Downstream side of the Canal Lock No. Two (2), and bounded on the North by the South line of Certified Survey Map No. ~~6241~~ as recorded in Volume ~~26~~ of Maps on Pages ~~6241~~.

REVISED 12-6-10 DEW

tiwoelz W:\PROJECTS\E0948\900511\62\03-North Bank Lease Area Description Rev12-6-10.dwg 12/06/10 1:30 PM

Project No. E0948 900511.82 Date OCT, 2010 Scale NONE

Drawn By DEW Field Book Page

1445 McMAHON DRIVE NEENAH, WI 54958
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 751-4200 Fax: (920) 751-4284

McMAHON
ENGINEERS ARCHITECTS

File No.



FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

1008 Augustine Street
Kaukauna, WI 54130
Tele: 920-759-9833
Fax: 920-759-9834

March 28, 2011

Randy Stadtmueller
Eagle Flats, LLC
820 South Olde Oneida Street
Appleton, WI 54915

Dear Mr. Stadtmueller:

Board Members

Ron Van De Hey
Chairman

Bill Raaths
Vice Chairman

John Vette
Secretary

Tim Rose
Treasurer

Will Stark

Celestine Jeffreys

James Draeger

Will Dorsey

Jean Romback-Bartels

CEO
Harlan Kiesow

This letter responds to your request for review and comment on the Landscape Site Plan for the Eagle Flats development project along the north side of the Fox Locks Canal in the City of Appleton. The Fox River Navigational System Authority has reviewed the Landscape Site Plan dated December 13, 2010 as it applies to the long term lease between the Authority and Eagle Flats, LLC as well as the Authority's current activities and future plans along the canal.

The Authority finds the Landscape Site Plan to be consistent with the terms of the long term lease and with the Authority's activities and plans for the area. We do request that Eagle Flats, LLC notify the Authority at the time of the ground construction survey completion so we can maintain contact during the construction phase. Also, please notify the Authority of any changes to the site plan.

In summary, the Fox River Navigational System Authority supports the site plan and wishes success in this phase of the project.

Sincerely,

Harlan Kiesow, CEO



FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

1008 Augustine Street
Kaukauna, WI 54130
Tele: 920-759-9833
Fax: 920-759-9834

April 4, 2011

Randy Stadtmueller
Eagle Flats, LLC
820 South Olde Oneida Street
Appleton, WI 54915

Board Members

Ron Van De Hey
Chairman

Bill Raaths
Vice Chairman

John Vette
Secretary

Tim Rose
Treasurer

Will Stark

Celestine Jeffreys

James Draeger

Will Dorsey

Jean Romback-Bartels

CEO
Harlan Kiesow

Subject: Eagle Flats Canal Masonry Wall Plan

Dear Mr. Stadtmueller:

This letter responds to your request for review and comment on the proposed Plan for a masonry wall section for the Eagle Flats development project along the north side, east end of the Fox Locks Canal in the City of Appleton. The Fox River Navigational System Authority has reviewed the Masonry Wall Plan dated March, 2011 as it applies to the long term lease between the Authority and Eagle Flats, LLC as well as the Authority's current activities and future plans along the canal.

The Authority finds the Masonry Wall Plan to be consistent with the terms of the long term lease and with the Authority's activities and plans for the area. We do request that Eagle Flats, LLC notify the Authority at the time of the ground construction survey completion so we can maintain contact during the construction phase. Also, please notify the Authority of any changes to the wall plan.

In summary, the Fox River Navigational System Authority supports the proposed Masonry Wall Plan and wishes success in this phase of the project.

Sincerely,



Harlan Kiesow, CEO

Cc: Matt Greely, OMNI



FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

1008 Augustine Street
Kaukauna, WI 54130
Tele: 920-759-9833
Fax: 920-759-9834

April 4, 2011

Randy Stadtmueller
Eagle Flats, LLC
820 South Olde Oneida Street
Appleton, WI 54915

Board Members

Ron Van De Hey
Chairman

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Tim Rose
Treasurer

Will Stark

Celestine Jeffreys

James Draeger

Will Dorsey

Jean Romback-Bartels

CEO
Harlan Kiesow

Subject: Eagle Flats Dam Abandonment Plan


Dear Mr. Stadtmueller:

This letter responds to your request for review and comment on the Dam Abandonment Plan for the Eagle Flats development project along the north side of the Fox Locks Canal in the City of Appleton. The Fox River Navigational System Authority has reviewed the Dam Abandonment Plan dated March, 2011 as it applies to the long term lease between the Authority and Eagle Flats, LLC as well as the Authority's current activities and future plans along the canal.

The Authority finds the Dam Abandonment Plan for Sites 1, 2 and 3 to be consistent with the terms of the long term lease and with the Authority's activities and plans for the area. We do request that Eagle Flats, LLC notify the Authority at the time of the ground construction survey completion so we can maintain contact during the construction phase. Also, please notify the Authority of any changes to the abandonment plan.

In summary, the Fox River Navigational System Authority supports the proposed Dam Abandonment Plan and wishes success in this phase of the project.

Sincerely,



Harlan Kiesow, CEO

Cc: Matt Greely, OMNNI