



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final-revised Common Council

Wednesday, July 6, 2016

7:00 PM

Council Chambers

- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE TO THE FLAG
- D. ROLL CALL OF ALDERPERSONS
- E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS
- F. PUBLIC PARTICIPATION
- G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[16-1029](#) Common Council Meeting Minutes of June 15, 2016

Attachments: [CC Minutes 6-15-16.pdf](#)

- H. BUSINESS PRESENTED BY THE MAYOR

[16-1030](#) Presentation of Appleton Police Department Civilian Medals of Gallantry to Andrew Maltbey and Nicholas Maltbey

[16-1031](#) Presentation of Parks and Recreation Month Proclamation

[16-1032](#) Presentation of Children's Week Proclamation

[16-1033](#) Presentation of Flag Day Parade Awards

[16-1056](#) Appointment of Tanya Rabec to the City Plan Commission

- I. PUBLIC HEARINGS

[16-1046](#) Public Hearing for Resolution 3-P-16, Sanitary Sewer, Storm Sewer and Laterals

Attachments: [3-P-16 Public Hearing Notice.pdf](#)

- J. SPECIAL RESOLUTIONS

[16-1034](#) Resolution 3-P-16, Sanitary Sewer, Storm Sewer & Laterals

Attachments: [3-P-16 Final Resolution Sanitary Storm Sewer Laterals.pdf](#)

K. ESTABLISH ORDER OF THE DAY

L. COMMITTEE REPORTS

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[16-996](#) Request from Jim Ackerman to appeal his \$50 Weed Administration Fee for 131 W. Winrowe Drive.

Attachments: [131 W. Winrowe Drive.pdf](#)

Legislative History

| | | |
|---------|------------------------------|------------------------|
| 6/21/16 | Municipal Services Committee | recommended for denial |
|---------|------------------------------|------------------------|

[16-1003](#) Approve Red Ramp Pedestrian Access Agreement with SOMA Corp.

Attachments: [Red Ramp Pedestrian Access Agreement.pdf](#)

Legislative History

| | | |
|---------|------------------------------|--------------------------|
| 6/21/16 | Municipal Services Committee | recommended for approval |
|---------|------------------------------|--------------------------|

[16-1004](#) Adopt City of Appleton Complete Streets Policy.

Attachments: [Adopt City of Appleton Complete Streets Policy.pdf](#)

Legislative History

| | | |
|---------|------------------------------|--------------------------|
| 6/21/16 | Municipal Services Committee | recommended for approval |
|---------|------------------------------|--------------------------|

[16-1008](#) Preliminary Resolution 4-P-16 for Sidewalk Construction be adopted and refer the matter to the Finance Committee to determine the assessment rate.

Attachments: [Resolution #4-P-16.pdf](#)

Legislative History

| | | |
|---------|------------------------------|--------------------------|
| 6/21/16 | Municipal Services Committee | recommended for approval |
|---------|------------------------------|--------------------------|

[16-1023](#) Anticipated award for P-16 Epoxy Contract.

Attachments: [Unit P-16.pdf](#)

Legislative History

6/21/16 Municipal Services recommended for approval
Committee
Amend 16-1023. Award P-16 Epoxy Contract to Brickline, Inc. in an amount not to exceed \$49,000.

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[16-956](#) Reserve "Class B" Beer/Liquor License application of El Jaripeo Appleton LLC, Antonio Sandoval, Agent, 3401 E. Evergreen Drive, contingent upon approval from all departments.

Legislative History

6/22/16 Safety and Licensing recommended for approval
Committee

[16-961](#) Taxi Cab and Limousine Service renewal application of A2B Taxi LLC, Bradley Pingel, 1348 W. Summer Street, contingent upon approvals from all departments.

Legislative History

6/22/16 Safety and Licensing recommended for approval
Committee

[16-994](#) Taxi Cab and Limousine Service renewal application of LIR Transportation LLC, Igor Leykin, 719 W. Frances Street, contingent upon approvals from all departments.

Legislative History

6/22/16 Safety and Licensing recommended for approval
Committee

[16-995](#) Farm Market application of Long Cheng Marketplace, Mai Youa Thao, 1804 S. Lawe Street, every day from July to October, 2016, contingent upon approval from all departments.

Legislative History

6/22/16 Safety and Licensing recommended for approval
Committee

[16-1010](#) Operator's Licenses

Attachments: [Operator's Licenses for 6-22-16 S & L.pdf](#)

Legislative History

6/22/16 Safety and Licensing recommended for approval
Committee

[16-1011](#) Renewal Operator's Licenses

Attachments: [Renewal Operator's Licenses for 6-22-16 S & L.pdf](#)

Legislative History

6/22/16

Safety and Licensing
Committee

recommended for approval

3. MINUTES OF THE CITY PLAN COMMISSION**4. MINUTES OF THE PARKS AND RECREATION COMMITTEE****5. MINUTES OF THE FINANCE COMMITTEE**[16-1015](#)

Request to award Unit H-15 Spartan Drive and Haymeadow Avenue Sewer and Force Main Construction to Kruczek Construction Inc. in the amount of \$427,427 with a 4.7% contingency of \$20,000 for a project total not to exceed \$447,427.

Attachments: [Unit H-15.pdf](#)

Legislative History

6/21/16

Finance Committee

recommended for approval

[16-1016](#)

Request to reject bid received for Unit Y-16 Arbutus Park Storm Lift Station Rehabilitation and rebid in Fall, 2016.

Attachments: [Unit Y-16.pdf](#)

Legislative History

6/21/16

Finance Committee

recommended for approval

[16-1017](#)

Request to approve Finance Committee Report 4-P-16 for Sidewalk Construction.

Attachments: [Report 4-P-16.pdf](#)

Legislative History

6/21/16

Finance Committee

recommended for approval

[16-1022](#)

Request to approve the following 2016 Budget adjustment:

TIF #6

| | |
|--|-------------|
| Land Purchase | +\$152,749 |
| Fund Balance (advance from General Fund) | - \$152,749 |

to provide funding for the repurchase of Lot 13 in the Southpoint Commerce Park.

Attachments: [Commercial Horizons LOI 6-7-16.pdf](#)

[SubjectParcel06162016.pdf](#)

Legislative History

6/21/16 Finance Committee recommended for approval

contingent on approval from CEDC Plank, seconded by Dannecker passes 4-1 (Lobner)

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

16-977

Request to waive repurchase rights for Lot 2 of CSM 3490 in the Northeast Business Park, allowing the transfer from Nicolet National Bank to C3 Corporation or Assigns; this waiver is not transferable, survivable, or assignable and the City's repurchase rights would remain on this property

Attachments: [Repurchase waiver Lot 2 CSM 3490.pdf](#)
[CovenantsandRestrictions_CSM3490Lot2.pdf](#)
[Venture Offer.pdf](#)
[AvailableSites_06122016.pdf](#)

Legislative History

6/22/16 Community & Economic Development Committee recommended for approval

16-1019

Request to authorize staff to accept the basic terms of the Letter of Intent from Commercial Horizons dated June 7, 2016 and continue to negotiate terms toward offer to purchase and development agreement for Lots 12 and 13 of Plat 1 in the Southpoint Commerce Park (Associated with Action Item #16-1020)

Attachments: [Commercial Horizons LOI 6-7-16.pdf](#)
[SubjectParcel06162016.pdf](#)
[Southpoint Deed Restrictions.pdf](#)

Legislative History

6/22/16 Community & Economic Development Committee recommended for approval

16-1020

Request to authorize staff to proceed with the repurchase of Lot 13 of Plat 1 in the Southpoint Commerce Park under the terms outlined in Section 13 - Repurchase Rights (Associated with Action Item #16-1019)

Attachments: [Commercial Horizons LOI 6-7-16.pdf](#)
[SubjectParcel06162016.pdf](#)
[Southpoint Deed Restrictions.pdf](#)

Legislative History

6/22/16 Community & Economic Development Committee recommended for approval

[16-1026](#)

Request to approve a Variance to the Deed Restrictions and Covenants allowing for a fence setback less than fifteen (15) feet from the lot line at 2619 E. Capitol Drive, specifically to allow a setback of six and one-half (6 1/2) feet on the western property boundary and five (5) feet on the southern boundary

Attachments: [2619 E Capitol Var 6-16-16.pdf](#)

[Variance Request 2619 E. Capitol.pdf](#)

[Northeast Business Park Map.pdf](#)

[NEIP Deed Restrictions.pdf](#)

Legislative History

6/22/16

Community & Economic
Development Committee

recommended for approval

7. MINUTES OF THE UTILITIES COMMITTEE

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

10. MINUTES OF THE BOARD OF HEALTH

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[16-1028](#)

Ordinance 50-16 and 51-16

Attachments: [Ordinances going to Council 7-6-16.pdf](#)

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

R. OTHER COUNCIL BUSINESS

[16-706](#)

Reconsideration of Request to approve Special Use Permit #2-16 for an 85-foot monopole wireless telecommunication tower with associated antennas and ground equipment located in the 2700 block of N. Kesting Court (Tax Id 31-1-4025-00), as shown on the attached maps and per attached plan of operation, subject to the conditions in the attached staff report

Attachments: [StaffReportReferBack_KestingCtTower_SpecialUsePermit#2-16.pdf](#)
[Kesting Ct Cell Tower Petition.pdf](#)
[Photos submitted to Plan Commission on 5-9-16 re Kesting Ct Tower.pdf](#)

Legislative History

| | | |
|---------|---|--------------------------------------|
| 5/9/16 | City Plan Commission | recommended for approval |
| 5/18/16 | Common Council | referred to the City Plan Commission |
| | <i>Aldersperson Croatt Referred this Item back to the City Plan Commission. The Item will be on the June 6th City Plan Commission Agenda.</i> | |
| 6/6/16 | City Plan Commission | recommended for approval |
| 6/15/16 | Common Council | denied |
| | <i>Special Use Permits require a 2/3 majority vote.</i> | |

[16-1053](#)

Convene into Committee of the Whole

[16-1057](#)

Award contract to Zimmerman Architectural Studios for design and engineering services for the Fox Cities Exhibition Center for a contract of \$1,819,114 and a 10% design contingency for a contract not to exceed \$2,001,025.

Attachments: [2016 Expo Center Architect and Engineer \(002\).pdf](#)

[16-1058](#)

Award contract to Miron Construction for Construction Manager at Risk services for the Fox Cities Exhibition Center for a contract of \$589,315 and \$25,000 for reimbursable expenses for a contract not to exceed \$614,315.

Attachments: [2016 Expo Center Construction Manager.pdf](#)

[16-1059](#)

Request to approve the following 2016 Budget adjustment:

Exhibition Center Capital Projects Fund

| | |
|---------------------------------|-------------|
| Architect Fees | \$2,001,025 |
| Contractor Fees | \$614,315 |
| Proceeds of Debt/Hotel Room Tax | \$2,615,340 |

To record cost of architect and construction management fees for the construction of the Exhibition Center.
Costs will be funded by the hotel room tax.
2/3 vote is required

[16-1055](#)

Reconvene to Common Council

[16-1060](#)

Report of the Committee of the Whole

S. ADJOURN

Kami Lynch, City Clerk

Reasonable accommodations for persons with disabilities will be made upon request and if feasible.



City of Appleton

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Meeting Minutes - Final Common Council

Wednesday, June 15, 2016

7:00 PM

Council Chambers

A. CALL TO ORDER

The meeting was called to order by Mayor Hanna at 7:00 p.m.

B. INVOCATION

The Invocation was given by Alderperson Konetzke.

Meeting went into Recess due to a fire alarm.

Meeting Reconvened at 7:46 p.m.

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

Present: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams and Mayor Timothy Hanna

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

City Clerk Lynch, City Attorney Walsh, Director of Community & Economic Development Harkness, Director of Finance Saucerman, Fire Chief Vander Wyst, Health Officer Eggebrecht, Director of Human Resources Behnke, Director of Parks, Recreation and Facilities Gazza, Police Chief Thomas, Director of Public Works Vandehey, Director of Utilities Shaw, Valley Transit Asst. General Manager Sandmeier, Library Director Rortvedt

F. PUBLIC PARTICIPATION

The following spoke regarding Item 16-706 Special Use Permit #2-16 for an 85-foot monopole wireless tower:

Rod Roovers, 2708 Kesting Ct

Emory Laffin, 2709 Kesting Ct

Ryan Vissers, 2213 Kesting Ct

Bill Fellows, 1808 E Longview Dr

G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[16-964](#)

Common Council Meeting Minutes of June 1, 2016

Attachments: [CC Minutes 6-1-16.pdf](#)**Alderson Baranowski moved, seconded by Alderson Konetzke, that the Minutes be approved. Roll Call. Motion carried by the following vote:****Aye:** 13 - Alderson Kathleen Plank, Alderson William Siebers, Alderson Curt Konetzke, Alderson Ed Baranowski, Alderson Margret Mann, Alderson Patti Coenen, Alderson Kyle Lobner, Alderson Jeffrey Jirschele, Alderson Matt Reed, Alderson Vered Meltzer, Alderson Joe Martin, Alderson Greg Dannecker and Alderson Christine Williams**Excused:** 2 - Alderson Cathy Spears and Alderson Chris Croatt**Abstained:** 1 - Mayor Timothy Hanna

H. BUSINESS PRESENTED BY THE MAYOR

I. PUBLIC HEARINGS

[16-966](#)

Public Hearing - Comprehensive Plan Amendment #2-16

Attachments: [Public Hearing Notice CPA .pdf](#)*The Public Hearing was held. No one spoke for or against the item.*[16-967](#)

Public Hearing - Rezoning #4-16

Attachments: [Public Hearing RZ .pdf](#)*The Public Hearing was held. No one spoke for or against the item.*

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

16-706

Request to approve Special Use Permit #2-16 for an 85-foot monopole wireless telecommunication tower with associated antennas and ground equipment located in the 2700 block of N. Kesting Court (Tax Id 31-1-4025-00), as shown on the attached maps and per attached plan of operation, subject to the conditions in the attached staff report

Attachments: [StaffReportReferBack_KestingCtTower_SpecialUsePermit#2-16.pdf](#)
[Kesting Ct Cell Tower Petition.pdf](#)
[Photos submitted to Plan Commission on 5-9-16 re Kesting Ct Tower.pdf](#)

Special Use Permits require a 2/3 majority vote.

Aldersperson Martin moved, seconded by Aldersperson Lobner, that the Report Action Item be approved. Roll Call. Motion failed by the following vote:

Aye: 7 - Aldersperson Kathleen Plank, Aldersperson Curt Konetzke, Aldersperson Margret Mann, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed and Aldersperson Joe Martin

Nay: 4 - Aldersperson William Siebers, Aldersperson Ed Baranowski, Aldersperson Patti Coenen and Aldersperson Christine Williams

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 3 - Aldersperson Vered Meltzer, Aldersperson Greg Dannecker and Mayor Timothy Hanna

16-710

Request to approve Comprehensive Plan 2010-2030 Future Land Use Map Amendment #2-16 for 5715 North Meade Street, north of the intersection of Edgewood Drive (JJ) and Meade Street (Tax Id #31-6-6100-50) from One and Two-Family Residential designation to Multi-Family Residential designation as shown on the attached map and approve the attached resolution

Attachments: [StaffReport_Primrose_CompPlanAmend#2-16&Rz#4-16.pdf](#)

Aldersperson Martin moved, seconded by Aldersperson Lobner, that the Comprehensive Plan Amendment be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Margret Mann, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker and Aldersperson Christine Williams

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

[16-712](#)

Request to approve Rezoning #4-16 for 5715 North Meade Street, north of the intersection of Edgewood Drive (JJ) and Meade Street (Tax Id #31-6-6100-50), including to the centerline of the adjacent right-of-way, as shown on the attached map, from R-1A Single-Family District to R-3 Multi-Family District

Attachments: [StaffReport_Primrose_CompPlanAmend#2-16&Rz#4-16.pdf](#)

Aldersperson Martin moved, seconded by Aldersperson Plank, that the Rezoning be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Margret Mann, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker and Aldersperson Christine Williams

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

[16-708](#)

Request to approve Special Use Permit #3-16 for a community living arrangement (CLA) serving 24 persons located at 5715 North Meade Street, north of the intersection of Edgewood Drive (JJ) and Meade Street (Tax Id #31-6-6100-50) to run with the land, subject to the conditions in the attached staff report and as shown on the attached maps

Attachments: [StaffReport_Primrose_SpecialUsePermit#3-16.pdf](#)

Aldersperson Konetzke moved, seconded by Aldersperson Martin, that the Special Use Permit be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Margret Mann, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker and Aldersperson Christine Williams

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

[16-893](#)

Request from Dan Rosenberg, 1026 W. Calumet Street for a permanent street occupancy permit to construct a landscape berm within the Garden Court street right-of-way. This request is in violation of the City's Street Terrace Policy.

Attachments: [1026 W. Calumet St.pdf](#)
 [1026 W Calumet St-photos.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Martin, that the Street Occupancy Permit be approved. Roll Call. Motion carried by the following vote:

Aye: 12 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Margret Mann, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin and Aldersperson Christine Williams

Nay: 1 - Aldersperson Greg Dannecker

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

[16-851](#)

Approve South Oneida Street Streetscape Elements Plan to include standard City-owned LED street lights from Roeland Avenue to ~~Calumet Street~~ the Skyline Bridge (except for the block from Calumet Street to Foster Street which will remain WE Energies lights).

Attachments: [S. Oneida Street Streetscape Elements.pdf](#)
 [Oneida Street lighting alternatives.pdf](#)

This Report Action Item was approved.

Aye: 9 - Aldersperson Kathleen Plank, Aldersperson Ed Baranowski, Aldersperson Margret Mann, Aldersperson Patti Coenen, Aldersperson Jeffrey Jirschele, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin and Aldersperson Christine Williams

Nay: 4 - Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Kyle Lobner and Aldersperson Greg Dannecker

Excused: 2 - Aldersperson Cathy Spears and Aldersperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

Aldersperson Dannecker moved, seconded by Aldersperson Baranowski, that the Report Action Item be amended to remove Amendment #1 that was approved in Committee. Roll Call. Motion failed by the following vote:

Aye: 4 - Aldersperson William Siebers, Aldersperson Kyle Lobner, Aldersperson Joe Martin and Aldersperson Greg Dannecker

Nay: 9 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer and Alderperson Christine Williams

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

Alderperson Dannecker moved, seconded by Alderperson Baranowski, that the Report Action Item be amended to remove Amendment #2 that was approved in Committee. Roll Call. Motion failed by the following vote:

Aye: 4 - Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Kyle Lobner and Alderperson Greg Dannecker

Nay: 9 - Alderperson Kathleen Plank, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin and Alderperson Christine Williams

Absent: 3 - Alderperson Cathy Spears, Alderperson Chris Croatt and Mayor Timothy Hanna

Alderperson Dannecker moved, seconded by Alderperson Baranowski, that the Report Action Item be amended to remove Amendment #3 that was approved in Committee. Roll Call. Motion carried by the following vote:

Aye: 9 - Alderperson Kathleen Plank, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin and Alderperson Christine Williams

Nay: 4 - Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Kyle Lobner and Alderperson Greg Dannecker

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

16-926

Request to approve entering an intergovernmental agreement with the Appleton Area School District for the purpose of the joint establishment, operation and cost sharing of an employee health clinic.

Attachments: [Memo Intergovernmental agreement.pdf](#)
 [Intergovernmental Agreement.pdf](#)

Alderperson Martin moved, seconded by Alderperson Dannecker, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:

Aye: 12 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker and Alderperson Christine Williams

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 2 - Alderperson Ed Baranowski and Mayor Timothy Hanna

16-927

Request to approve payment to ThedaCare for the City's share of facility location expenses during the three year term that ThedaCare also provides the employee health clinic services.

Attachments: [Lease Memo.pdf](#)
 [Lease Proposal.pdf](#)

Alderperson Lobner moved, seconded by Alderperson Dannecker, that the Report Action Item be approved. Roll Call. Motion carried by the following vote:

Aye: 12 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker and Alderperson Christine Williams

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 2 - Alderperson Ed Baranowski and Mayor Timothy Hanna

16-547

Resolution #5-R-16/Alderperson Plank

Attachments: [Resolution #5-R-16 - Safe Leashing.pdf](#)
 [3-1 Proposed Changes 2016 05 24.pdf](#)

Alderperson Baranowski moved, seconded by Alderperson Dannecker, that the Resolution be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker and Alderperson Christine Williams

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

L. COMMITTEE REPORTS

Balance of the action items on the agenda.

Alderperson Martin moved, Alderperson Meltzer seconded, to approve the balance of the agenda. The motion carried by the following vote:

Aye: 13 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker and Alderperson Christine Williams

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Abstained: 1 - Mayor Timothy Hanna

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[16-952](#) Award Unit Q-16 Pavement Marking Maintenance Contract (Paint) to Crowley Construction Corp. in the amount of \$44,712.04 plus a \$5,000 contingency.

Attachments: [Unit Q-16 .pdf](#)

This Report Action Item was approved.

[16-894](#) Award 2016-2020 Movable Bridge Inspections Contract to Collins Engineers, Inc. in an amount not to exceed \$80,000.

Attachments: [Movable Bridge Inspections Contract.pdf](#)

This Report Action Item was approved.

[16-913](#) Approve Intergovernmental Agreement with Outagamie County for the CTH "JJ" (Edgewood Drive) Street Reconstruction Project between Ballard Road and Lightning Drive.

Attachments: [CTH JJ-CTH E to Lightning Drive.pdf](#)

This Report Action Item was approved.

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[16-861](#) Operator's License application of Dominic R. Kendl, 1109 N. Lawe Street.

This Report Action Item was approved.

[16-864](#) Salvage Dealer's License Renewal application of Green Meadow Recycling, Inc., Neil D. Novak, Applicant, 2220 W. Everett St., contingent upon approval from all departments.

This Report Action Item was approved.

[16-865](#) Salvage Dealer's License Renewal application of Golper Supply Co., Inc., David B. Golper, Applicant, 1810 N. Edgewood Dr., contingent upon approval from all departments.

This Report Action Item was approved.

[16-868](#) "Class A" Beer/Liquor License - Change of Agent of Walgreens #12693, Melissa M. Drawenek, Agent, 729 W. Northland Ave., contingent upon approval from the Police Department.

This Report Action Item was approved.

[16-872](#) Pet Store License Renewal application of Just Pets, Craig L. Weborg, Applicant, 2009 N. Richmond St., contingent upon approval from all departments.

This Report Action Item was approved.

[16-873](#) Salvage Dealer's License Renewal application of Appleton Aluminum Recycling Inc., Charles O. Desten, Applicant, 300 N. Kensington Dr., contingent upon approval from all departments.

This Report Action Item was approved.

[16-890](#) Pet Store License renewal application of Petco#1656, Ferdinand H. Gorzelitz, Applicant, 3829 E. Calumet St., contingent upon approval from all departments.

This Report Action Item was approved.

[16-903](#) "Class B" Beer/Liquor License - Change of Agent of Dieters Place LLC, Jonathon E. Kuehn, Agent, 830 E. Northland Ave., contingent upon approval from the Police Department.

This Report Action Item was approved.

[16-907](#) Operator's Licenses

Attachments: [Operator's Licenses for 6-8-16 S & L.pdf](#)

This Report Action Item was approved.

[16-908](#) Renewal Operator's Licenses

Attachments: [Renewal Operator's Licenses for 6-8-16 S & L.pdf](#)

This Report Action Item was approved.

[16-912](#) "Class B" Beer/Liquor License - Change of Agent of Harvey Pierre Post No. 2778 d/b/a VFW Post 2778, Trista K. Nickerson, Agent, 501 N. Richmond St., contingent upon approval from the Police Department.

This Report Action Item was approved.

[16-924](#) 2016-2017 Beer/Liquor License Renewal applications, contingent upon approval from all departments.

Attachments: [2016-2017 Beer Liquor License Renewals2.pdf](#)

This Report Action Item was approved.

3. MINUTES OF THE CITY PLAN COMMISSION

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

5. MINUTES OF THE FINANCE COMMITTEE

[16-919](#) Request to approve Finance Committee Report 3-P-16 for Sanitary Sewer, Storm Sewer and Laterals.

Attachments: [Report 3-P-16.pdf](#)

This Report Action Item was approved.

[16-922](#)

Request to award the City of Appleton Municipal Services Building 2016 HVAC Replacement Project contract to B&P Mechanical, Inc. in the amount of \$338,800 with a contingency of \$8,400 for a contract total not to exceed \$347,200.

Attachments: [2016 MSB HVAC replacement award and budget adjustemnt.pdf](#)

This Report Action Item was approved.

[16-925](#)

Request to approve the following 2016 budget adjustment:

Facilities Capital Projects Fund

| | |
|---|------------|
| MSB Roof Replacement Project | - \$35,000 |
| Fire Stations #3 & #5 Exterior Lighting Project | - \$30,000 |
| MSB HVAC Replacement Project | +\$65,000 |

to reallocate positive budget variance from MSB roof replacement project and Fire Stations exterior lighting project to MSB HVAC replacement project.

Attachments: [2016 MSB HVAC replacement award and budget adjustemnt.pdf](#)

This Report Action Item was approved.

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

[16-888](#)

Request to approve the 2015 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) Program

Attachments: [CAPER memo to CEDC 6-8-16.pdf](#)
 [PY 2015 Report FINAL.pdf](#)

This Report Action Item was approved.

7. MINUTES OF THE UTILITIES COMMITTEE

[16-822](#)

Approve May 2016 Revisions to Stormwater Utility Credit Policy.

Attachments: [Memo Credit Policy Approval 05-24-2016.pdf](#)
 [2016 Revised Stormwater Utility Credit Policy Combined.pdf](#)
 [2016 Revised Stormwater Utility Credit Policy 06-08-2016](#)
 [COMBINED FINAL.pdf](#)

This Report Action Item was approved.

16-902

Request approval of electronic Compliance Maintenance Annual Report (eCMAR) for 2015 and request the following Resolution be presented to the Common Council for approval:

Whereas, the City of Appleton has successfully been operating a biosolids compost program in cooperation with the Outagamie Department of Solid Waste; and

Whereas, Outagamie County has committed to continue allowing biosolids composting during the next five years on over five acres of County property; and

Whereas, the City of Appleton has applied for re-issuance of the Wisconsin Pollution Discharge Elimination System (WPDES) permit; and

Whereas, the WPDES permit application requests for biosolids compost program and outfall; and

Whereas, the City of Appleton will meet requirements of NR 204 for biosolids storage when WDNR reissues the WPDES permit allowing storage on the County property; and,

Whereas, the WDNR continues supporting and providing guidance for the City of Appleton's biosolids compost program.

Now, therefore, be it resolved by the City Council that the City of Appleton:

Article 1. Continues supporting an active biosolids program.

Article 2. Within the next five years provide for long term biosolids storage planning.

Attachments: [eCMAR memo 2015.pdf](#)
 [eCMAR 2015.pdf](#)

This Report Action Item was approved.

16-909

Approve Amendment #1 to Robert E. Lee and Associates for the Water Clarifier Coating Contract to increase field inspections services resulting in an increase of \$16,000.

Attachments: [Clarifier Coating Contract Amendment 1.pdf](#)

This Report Action Item was approved.

[16-910](#)

Preliminary Resolution 3-P-16 for Sanitary Sewer, Storm Sewer, Sanitary Laterals & Storm Laterals be adopted and refer the matter to Finance Committee to determine the assessment rate.

Attachments: [Resolution 3-P-16.pdf](#)

This Report Action Item was approved.

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

10. MINUTES OF THE BOARD OF HEALTH

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[16-965](#)

Ordinances 47-16 through 49-16

Attachments: [Ordinances going to Council 6-15-16.pdf](#)

This Report Action Item was approved.

P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION

R. OTHER COUNCIL BUSINESS

S. CLOSED SESSION

T. ADJOURN

Aldersperson Baranowski moved, seconded by Aldersperson Mann, that the meeting be adjourned at 8:59 p.m. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Margret Mann, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Jeffrey Jirschele, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams and Mayor Timothy Hanna

Excused: 2 - Alderperson Cathy Spears and Alderperson Chris Croatt

Kami Lynch, City Clerk

NOTICE OF PUBLIC HEARING ON SPECIAL ASSESSMENTS
(Preliminary Resolution 3-P-16)

PLEASE TAKE NOTICE THAT the Common Council hereby declares its intention to exercise its powers under Section 66.0703, Wisconsin Statutes, to levy special assessments upon property within the following described area for benefits conferred upon such property by improvement of the following area.

SANITARY SEWER, STORM SEWER AND LATERALS

Glendale Avenue from Birchwood Avenue to Mason Street
Grant Street from Nicholas Street to Mason Street

The assessment area consists of all property fronting upon both sides of the named streets from intersection to intersection or point to point described herewith including the full width of said intersection of said limits.

The Report of the Finance Committee showing preliminary and/or Final Plans and Specifications, estimated cost of improvements, schedule of proposed assessments is on file in the Department of Public Works, Fifth Floor, 100 North Appleton Street, Appleton, WI 54911. Please call 832-5592 to discuss specific questions or amounts to be assessed to your property or to view said documents, Monday through Friday, between the hours of 7:30 A.M. to 3:00 P.M.

You are further notified that the Common Council will hear all persons interested or their agents or attorneys concerning matters contained in the preliminary resolution authorizing such improvements and assessments at a regular meeting of the Common Council to be held on **July 6, 2016, at 7:00 P.M.** or as soon thereafter as can be heard, in the Council Chambers at the City Hall, 100 North Appleton Street, Appleton, Wisconsin. All objections will be considered at said hearing and thereafter the amount of the assessments will be finally determined.

June 13, 2016

RUN: June 21, 2016

KAMI LYNCH
City Clerk

REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES WILL BE MADE UPON REQUEST AND IF FEASIBLE.

RESOLUTION 3-P-16

FINAL RESOLUTION DECLARING INTENT TO EXERCISE SPECIAL ASSESSMENT POWERS UNDER SECTION 66.0703 (7) (a), WISCONSIN STATUTES OF 2011-2012.

WHEREAS, the Common Council of the City of Appleton, Wisconsin, held a Public Hearing at the Council Chambers in the City Hall at 7:00 P.M. on the 6th day of July, 2016, for the purpose of hearing all interested persons concerning the proposed improvements and construction in the following streets or portion of streets:

SANITARY SEWER, STORM SEWER AND LATERALS

Glendale Avenue from Birchwood Avenue to Mason Street

Grant Street from Nicholas Street to Mason Street

And has heard all person desiring an audience at such hearing.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Appleton as follows:

1. That the report of the Finance Committee pertaining to the construction of the above described public improvements including plans and specifications therefor, is hereby adopted and approved.
2. That the Finance Committee is directed to advertise for bids to carry out the work of such improvement in accordance with the report of the Finance Committee.
3. That payment for said improvements be made by assessing the cost to the property benefited as indicated in said report.
4. The schedule of proposed assessments made under the police power and the amount assessed against each parcel are true and correct and are hereby confirmed.
5. That the assessment for all projects included on said report are hereby combined as a single assessments but any interested property owner shall be entitled to object to each assessment separately or both assessments jointly for any purpose or purposes.
6. The assessment against any parcel may be paid to the Finance Department on receipt of Special Assessment Notice by one of the following:
 - a. In cash, or if entered on the Tax Roll.
 - b. One installment, if the assessment is \$1000 or less.
 - c. In five equal installments, if the assessment is greater than \$1000;Deferred payment will bear an interest at the rate of 6.25% per annum on the unpaid balance.
7. The City Clerk is directed to publish this resolution in the Appleton Post Crescent, the Official Newspaper of the City.
8. The Clerk is further directed to mail a copy of this resolution to every property owner whose name appears on the assessment roll and whose post office address is known or can with diligence be ascertained.

Adopted: July 6, 2016

Published: July 11, 2016

S/ TIMOTHY M. HANNA (Mayor)

Attest: KAMIL L. LYNCH, (City Clerk)

> -----Original Message-----

> From: James Ackerman [mailto:jackerman.abs@gmail.com]

> Sent: Thursday, June 09, 2016 2:10 PM

> To: Kurt Craanen <Kurt.Craanen@Appleton.org>

> Subject: Appeal

>

> Kurt, I would like to appeal your \$50 assessment for sending a letter that our grass was long.

>

> Sorry, we were on vacation. We arrived home today June 9th at 12:30 and the first thing I did was cut the grass.

>

> Jim Ackerman

> 131 W Winrowe Dr

> Appleton WI 54913

>

**DEPARTMENT OF PUBLIC WORKS**

Inspection Division
100 North Appleton Street
Appleton, WI 54911
Phone (920) 832-6411

No. 144176
Date Rec'd: 06/03/16

Neighborhood Service Form

DONALD ACKERMAN TRUST
131 W WINROWE DR
APPLETON WI 54913

| | | |
|-----------------------------------|-------------------------|--|
| Tax Key Number(s) 31-6-5203-00 | | Location of Complaint 131 W WINROWE DR APPLETON WI |
| Map Number Q46 | Lot Size 14639 sq ft | |

Complaint:

CUT TALL GRASS AND WEEDS ON ENTIRE PROPERTY

Inspection Report:

This complaint was investigated on June 3, 2016 by BLAYNE LANSER and was found to be:

- ☐ in violation letter sent
☐ in violation hang tag left
☒ in violation letter and hang tag

YOU ARE HEREBY ORDERED to abate the above confirmed violation(s) of the nuisance ordinance by the following corrective action:

CUT TALL GRASS AND WEEDS ON ENTIRE PROPERTY

Such correction is to be completed no later than 4:00 pm on June 9, 2016

Assessment charged: There is a minimum \$50 assessment charged for all owners who received this weed notice. Should the owner fail or refuse to complete corrective action by the time given, the City may enter upon subject property and abate the nuisance. The additional cost of such abatement will be charged to the property owner.

*****Office Use Only*****

Date Notice Mailed: June 6, 2016

Re-inspection Date: 6/10/16

Result: Cut or Not

Warrant Served: _____

Return of Officer: Blayne Lanser

Called Contractor: _____

Contractor Cut: _____

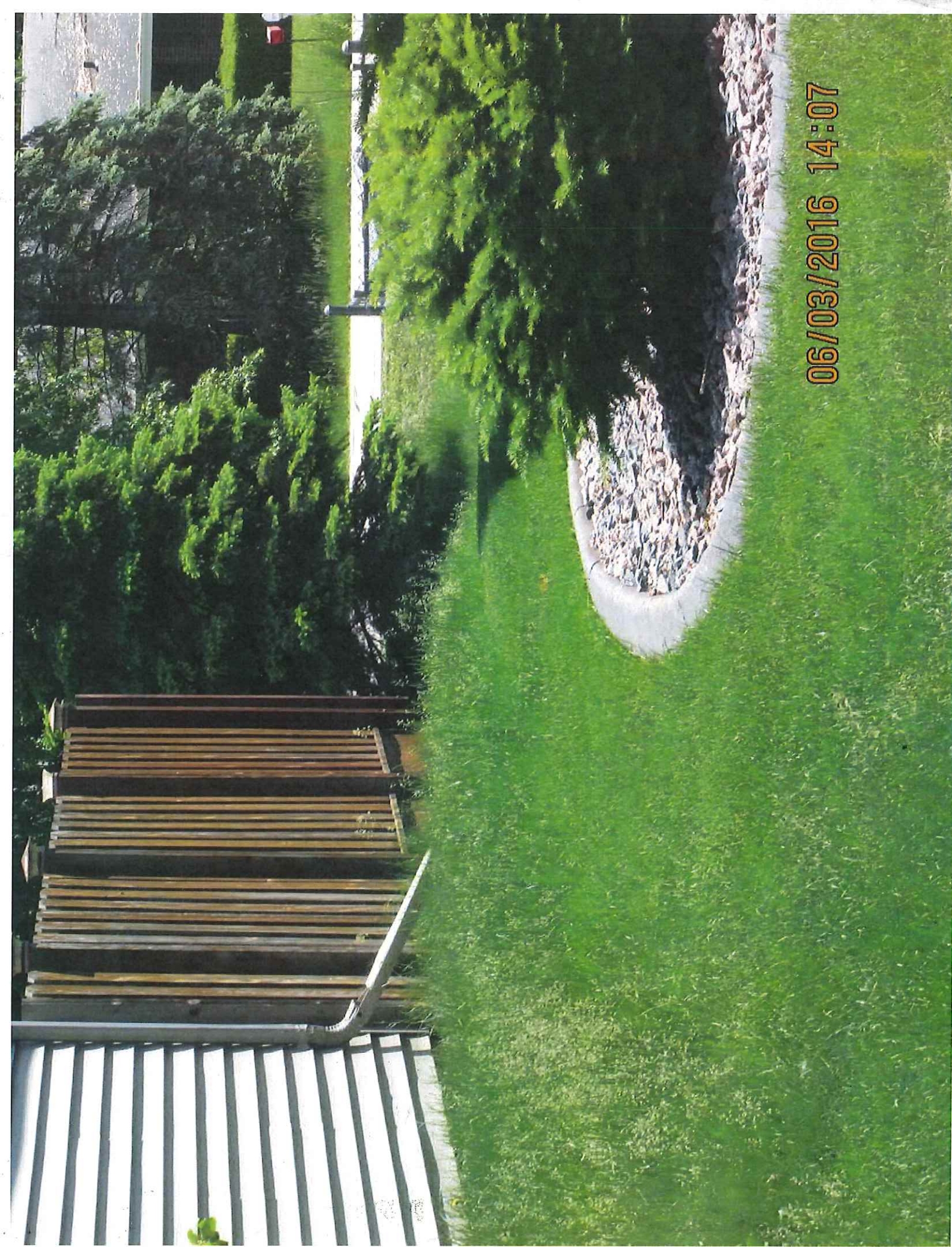
06/03/2016 14:04



06/03/2016 14:05



06/03/2016 14:07





06/03/2015 14:05

2016 Weed Fee Appeals

[illegible]

**PEDESTRIAN ACCESS TO LEVEL #3
OF THE CITY OF APPLETON
RED RAMP fka MIDTOWN RAMP**

Agreement between the City of Appleton (the City) and SOMA Corp for the purpose of providing direct pedestrian access from 211-213 West College Avenue to the third level of the Red Parking Ramp (fka Midtown Parking Ramp), 134 South Superior Street. This Agreement is subject to and in realization of the following:

1. All costs incurred with regard to providing this pedestrian access shall be the responsibility of SOMA Corp.
2. SOMA Corp shall be aware that the Radisson Paper Valley Hotel has an existing agreement with the City whereby they can control access and parking on Levels 3, 4, and 5 of the City of Appleton's Red Parking Ramp.
3. This Agreement continues the physical access of one (1) door from 211-213 to the Red Ramp and the loss of one (1) parking space. Therefore because of the above-mentioned agreement, the Radisson Paper Valley Hotel shall be signatory to this agreement indicating their approval of the continued loss of one space and physical access via the door located on the third floor of the ramp.
4. Any additional signage or lighting shall be at the cost of SOMA Corp and shall be subject to approval by the City.
5. The location of the access is as indicated on the drawing attached hereto as Exhibit A.
6. SOMA Corp shall be responsible for meeting all applicable, City, State and Federal codes for this access.
7. SOMA Corp shall carry liability insurance coverage naming the City of Appleton as an additional insured. SOMA Corp shall maintain insurance at the level of the Insurance Requirements for City of Appleton "Large Exposure Jobs" attached hereto as Exhibit B.
8. In consideration of this agreement, SOMA Corp agrees to indemnify, defend, and save harmless the City of Appleton, and their employees, elected and appointed officials, agents, and volunteers from and against all claims, suits, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with the aforementioned pedestrian access. SOMA Corp agrees to

defend any and all action wherein the City is named a party defendant at SOMA Corp's own expense.

9. This Agreement shall run with the property so long as neither the property nor any portion thereof is licensed for the sale of alcoholic beverages. Should the property, or any portion thereof, be licensed for the sale of alcoholic beverages and the liquor license covering the property or any portion thereof is revoked or not renewed pursuant to the provisions of Sec. 9-51 et seq. of the Appleton Municipal Code, then access to the ramp, from the area licensed to sell alcoholic beverages, may be terminated by the City, at the City's discretion, until a new license is issued.
10. This Agreement in no way provides for free or discounted parking in the Red Parking Ramp.
11. This Agreement shall be recorded to document the pedestrian access as benefiting 211-213 West College Avenue.

Dated at Appleton, Wisconsin this _____ day of _____, 2016.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

City of Appleton

By: _____
Timothy M. Hanna, Mayor

By: _____
Kami Lynch, City Clerk

Subscribed and sworn to before me
this ____ day of _____, 2016

Printed Name: _____
Notary Public, State of Wisconsin
My commission is/expires: _____

Approved as to form:

James P. Walsh, City Attorney
J:\Attorney\WORD\Agreements (General)\Red Ramp -
Pedestrian Access Agrm - Redlined - 06-15-16.doc

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

SOMA Corp

Witness: _____
Printed Name: _____

By: _____
Printed Name: _____
Title: _____

Witness: _____
Printed Name: _____

By: _____
Printed Name: _____
Title: _____

Subscribed and sworn to before me
this ____ day of _____, 2016

Printed Name: _____
Notary Public, State of Wisconsin
My commission is/expires: _____

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

Radisson Paper Valley Hotel

Witness: _____
Printed Name: _____

By: _____
Printed Name: _____
Title: _____

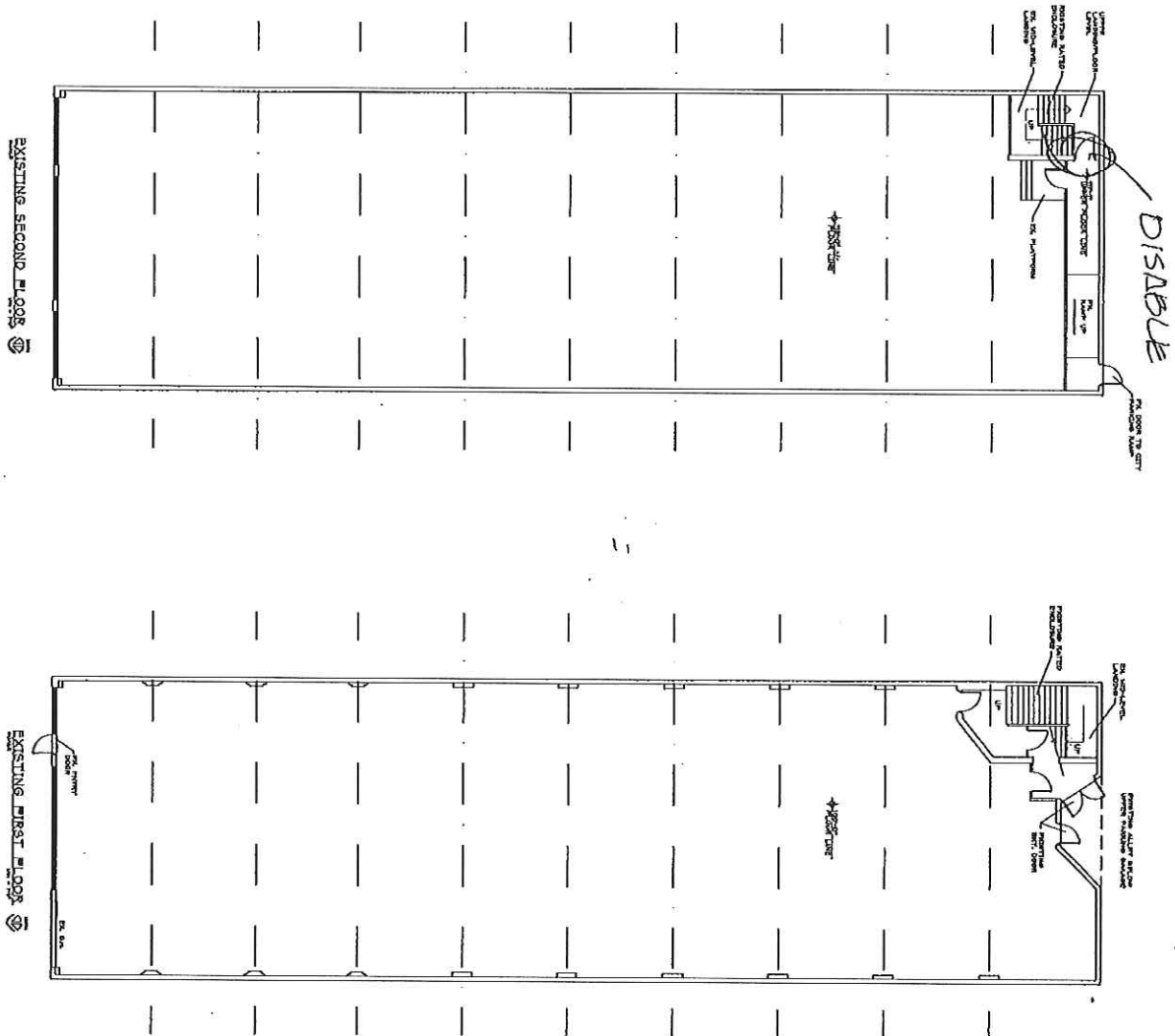
Witness: _____
Printed Name: _____

By: _____
Printed Name: _____
Title: _____

Subscribed and sworn to before me
this ____ day of _____, 2016

Printed Name: _____
Notary Public, State of Wisconsin
My commission is/expires: _____

Exhibit A




| | | | |
|----------|--|--|---|
| A 1.0 | DATE: 10/10/00 | PROPOSED FOR, 211 W. COLLEGE AVE. APPLETON, WISCONSIN |  671 MARCOLLA STREET KILGUS, WI 54138 TEL: 920-874-3157 FAX: 920-874-3110 |
| | ARCH: J. M. ... D. BY: J. M. ... JOB: ... PROJ: ... MAN: ... EXP: ... SUPER: ... | | |

Exhibit B

**INSURANCE REQUIREMENTS
FOR CITY OF APPLETON
"LARGE EXPOSURE JOBS"**

It is hereby agreed and understood that the insurance required by the City of Appleton is primary coverage and that any insurance or self insurance maintained by the City of Appleton, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss. All insurance shall be in full force prior to commencing work and remain in force until the entire job is completed or the length of time that is specified in the contract.

1. GENERAL LIABILITY COVERAGE

- A. Commercial General Liability
 - (a) \$1,000,000 general aggregate
 - (b) \$1,000,000 products - completed operations aggregate
 - (c) \$1,000,000 personal injury and advertising injury
 - (d) \$1,000,000 each occurrence limit
- B. Claims made form of coverage is not acceptable.
- C. Insurance must include:
 - (a) Premises and Operations Liability
 - (b) Blanket Contractual Liability including coverage for the joint negligence of the City of Appleton, its officers, council members, agents, employees, authorized volunteers and the named insured
 - (c) Personal Injury
 - (d) Explosion, collapse and underground coverage
 - (e) Products/Completed Operations
 - (f) The general aggregate must apply separately to this project/location

2. BUSINESS AUTOMOBILE COVERAGE

- A. Limits - \$250,000 each person/\$500,000 each accident for Bodily Injury and \$100,000 for Property Damage
OR
\$500,000 Combined Single Limit for Bodily Injury and Property Damage each accident
- B. Must cover liability for "Any Auto" - including Owned, Non-Owned and Hired Automobile Liability

3. **WORKERS COMPENSATION AND EMPLOYERS LIABILITY** - If required by Wisconsin State Statute or any Workers Compensation Statutes of a different state.

- A. Must carry coverage for Statutory Workers Compensation and Employers Liability limit of:
 - \$100,000 Each Accident
 - \$500,000 Disease Policy Limit
 - \$100,000 Disease - Each Employee

4. **UMBRELLA COVERAGE**

- A. Limits - \$2,000,000 each occurrence/\$2,000,000 aggregate
- B. Claims made coverage is not acceptable
- C. \$10,000 self-insured retention
- D. Must be no less broad than underlying coverages

5. **AIRCRAFT LIABILITY (including helicopter)** - Owned, Non-Owned, or Hired

- A. If this exposure shall exist, the limits must be at least \$5,000,000 combined single limit for bodily injury (including passenger liability) and property damage.
- B. Any liability exclusions relating to slung cargo must be deleted.

6. **BUILDER'S RISK/INSTALLATION FLOATER**

- A. City of Appleton will not assume responsibility for loss, including loss of use, for damage to property, materials, tools, equipment, and items of a similar nature which are being either used in the work being performed by the contractor or are to be installed or erected by the contractor unless coverage is specifically to be purchased by the City of Appleton and specified in the contract documents.
If coverage is desired for this exposure, the contractor may, at his own cost, procure insurance to cover same.

7. **AUTOMOBILE POLLUTION LIABILITY (including loading and unloading)**

If you're hauling or moving pollutants or hazards materials then the City of Appleton requires additional coverage. (Please contact the Human Resources Department (920) 832-6300 for the specifics.)

- A. Limits - \$1,000,000 each occurrence
\$2,000,000 annual aggregate
- B. Maximum deductible is \$2,500. Insured is responsible for any claims under the deductible
- C. Must cover pollutant clean up, and resulting bodily injury and property damage liability.
- D. Must cover liability for "any auto" including owned, non-owned and hired automobile liability.

8. ADDITIONAL PROVISIONS

- * Additional Insured –
On the General Liability Coverage, Business Automobile Coverage, Aircraft Liability, Umbrella Coverage and Automobile Pollution Liability. City of Appleton, and its officers, council members, agents, employees, and authorized volunteers shall be Additional Insureds.
- * Endorsement -
The Additional Insured Policy endorsement must accompany the Certificate of Insurance.
- * Certificates of Insurance -
A copy of the Certificate of Insurance must be on file with the City Clerk.
- * Notice -
NOTE: City of Appleton requires 30 day written notice of cancellation, non-renewal or material change in the insurance coverage.
- * The insurance coverage required must be provided by an insurance carrier with the “Best” rating of “A-VII” or better. All carriers shall be admitted carriers in the State of Wisconsin.



"...meeting community needs...enhancing quality of life."

DEPARTMENT OF PUBLIC WORKS

Engineering Division

100 North Appleton Street

Appleton, WI 54911

(920) 832-6474

FAX (920) 832-6489

Adopted July, 2016

CITY OF APPLETON
Complete Streets Policy

VISION

Appleton streets are designed and maintained to be safe, accessible, convenient and comfortable for all transportation modes, ages and abilities at all times.

INTENT

Complete Streets will help make Appleton more walkable and bikeable, support investments in transit, foster social engagement and community pride, support the local economy, and improve long-term sustainability of our community.

POLICY

This policy will provide the basis for establishing guiding principles and practices to ensure transportation improvements are planned, designed, constructed, operated and maintained for an accessible, safe, reliable, efficient, integrated, convenient and connected multimodal transportation system. The system created will promote active transportation and public health, and accommodate people of all ages and abilities.

PROJECTS AND PHASES

The City of Appleton shall approach all transportation projects as an opportunity to create safer, more accessible streets for all users. Complete Streets infrastructure improvements shall be added to the maximum extent practicable to all projects involving construction, reconstruction, expansion within the public right-of-way, retrofit of streets, bridges, or other public portions of the transportation network. This approach shall be used from the inception of the planning and design stages to final approval and implementation.

NETWORK

Under this policy, the City of Appleton will gradually create a network of streets to serve all users. While all modes will not receive the same type of accommodation and space on every street (due to considerations such as terrain, width of public right-of-way, typical use, etc.) these changes will greatly expand overall transportation options for residents traveling between the City of Appleton's various destinations.

EXCEPTIONS

Complete Streets principles and practices will be considered in design, construction, reconstruction, repaving, and rehabilitation projects related to streets, pedestrian walkways, bikeways and bike facilities. Any exceptions to this policy **denied by the Director of Public Works** must be approved by the Municipal Services Committee and City Council. Exceptions may be granted by the Director of Public Works when any of the following conditions apply:

1. Cost of accommodation is determined to be excessively disproportionate to the need or probable use.
2. Project does not fit within the context sensitivity objectives of this policy and there is no apparent current or future need.
3. Specific users are prohibited from the corridor (such as interstate freeways or pedestrian malls).
4. Site conditions render implementation infeasible.

Any exceptions granted ~~under the policy shall be documented.~~ **by the Director of Public Works shall be reported out as an information item to Municipal Services Committee.**

CONTEXT SENSITIVITY

Community context will be an important factor in all transportation decision making. Transportation projects will be planned, designed and constructed in a manner that is sensitive to the existing built environment, while taking into account future anticipated transportation needs. Recognizing that Appleton is one of many communities within the Fox Valley Region, the City will selectively target its limited resources to improve alternative transportation modes which serve the principal purpose of connecting Appleton to contiguous communities and/or to major points of interest or use within the city itself.

PERFORMANCE MEASURES

The City of Appleton shall put into place performance measures that determine the success of this policy. These measures may include, but are not limited to:

- Total miles of on-street bike lanes
- Total miles of trails
- Rate of crashes, injuries and fatalities by mode

- Percent of bus stops that have ADA-compliant sidewalk access from adjacent neighborhoods
- Percent of active transportation mode share

IMPLEMENTATION PLAN

The City of Appleton will view Complete Streets as integral to everyday transportation decision-making practices and processes. To this end:

1. Documents. The City shall review all codes, plans, procedures, regulations, guidelines, etc. to integrate Complete Street principles.
2. Inventory. The City shall maintain a comprehensive inventory of pedestrian and bicycle facility infrastructure that will prioritize projects to eliminate gaps in the sidewalk and bikeway network.
3. Funding. The City will actively seek sources of appropriate funding to implement Complete Streets.
4. Training. The City will make training opportunities available and train pertinent City staff on the content of the Complete Streets principles and best practices for implementing the policy. The City will offer training opportunities to community stakeholders and residents to understand the importance of the Complete Streets vision.

REPORT OF THE FINANCE COMMITTEE

PROJECT LIMITS:

4-P-16

SIDEWALK CONSTRUCTION

Lake Park Road from Plank Road to Northshore Boulevard

In accordance with the preliminary resolution of the Common Council dated July 6, 2016, we herewith submit our report on the assessment of benefits on the above named construction.

This report consists of the following:

Schedule A - Preliminary plans and specifications on file in the office of the Director of Public Works.

Schedule B - The total cost within the project limits in accordance with the plans and specifications in Schedule A is **\$13,605.50.**

Schedule C - Proposed Assessments. The properties included within the project limits are benefited and the work or improvements constitute an exercise of the police power. The total value of assessments is **\$13,008.20.**

| | |
|--|--|
| | |
| | |
| | |
| | |
| | |
| | |

Finance Committee



DEPARTMENT OF PUBLIC WORKS
Engineering Division – Traffic Section
2625 E. Glendale Avenue
Appleton, WI 54911
TEL (920) 832-5580
FAX (920) 832-5570

To: Municipal Services Committee
From: Eric Lom, City Traffic Engineer
Date: June 21, 2016
Re: Recommended award of the **Unit P-16** Pavement Marking Maintenance Contract (Epoxy)
Longitudinal Epoxy Pavement Markings

Quotes were opened for the **Unit P-16** Pavement Marking Maintenance Contract on June 20, 2016, as a means of establishing unit prices for this annual maintenance contract, which generally involves the installation/replacement of durable epoxy-type longitudinal and transverse pavement markings throughout the City.

While three quotes were solicited, only two quotes were received. Brickline, Inc., of Madison, Wisconsin, submitted the low quote in the total amount of \$30,742.25, which is lower than our estimated cost of ~\$41,000. Brickline, Inc. has worked with the City on this annual contract in past years with excellent results.

Based on this, we recommend award of the contract to Brickline, Inc., in an amount not to exceed \$49,000 (which represents our budgeted funds for this work). This will allow us to leverage the low unit prices to complete additional work and unforeseen projects that arise over the course of the construction season.

This dollar amount is based on available budgeted funds for pavement marking maintenance (17022), as well as pavement markings which will be completed for other City paving projects (17014, etc.).

Operator's Licenses for 6/22/16 S & L

Approved

| | |
|------------------------|---------------------------------------|
| Brittany F. Cleereman | 9993 Gun Powder Road, Newald |
| Criselle A. Kimball | 919 Irish Road, #9, Neenah |
| Elizabeth K. Hoopes | 2310 S. Schaefer Street |
| Laci R. Taplin | 87 S. Lake Street, Neenah |
| Sasha J. Milton | 527 W. Prospect Avenue |
| Amanda L. Habert | 680 Tarragon Drive, #7, Kaukauna |
| Amber L. Merkel | 1633 Elmwood Ave., #1, Oshkosh |
| Amy L. Altenhofen | 2302 Meadow Green Drive, Neenah |
| Anthony J. Van Heuklon | 590 Hill Road, Greenleaf |
| David Peterson | 1600 E. Sylvan Avenue |
| Derek A. Dimmer | 2098 Charles Street, DePere |
| Elisabeth N. Hidde | 1400 E. Byrd Street |
| Emily A. Hughes | N1153 Fox River Road, Kaukauna |
| Jason R. Rosenau | 874 Sixth Street, Menasha |
| Jeremy Neumann | 657 Indianwood Court, Neenah |
| Kimberly J. Brown | W5793 Cty Rd KK |
| Krystal R. Coon | 304 W. Schindler Place, #308, Menasha |
| Madyson T. DeWitt | 2501 E. Gatewood Drive |
| Michael D. Hovde | 1029 W. Franklin Street |
| Nicholas J. Loukidis | 1225 Summit Avenue, #104, Oshkosh |
| Samantha J. King | 2329 N. Cloudview Drive |
| Shae M. Boelter | 2810 W. Glenpark Drive |
| Tony J. Cooper | 11 Bellaire Court |

Renewal Operator's Licenses for 6/22/16 S & L

Approved

| | |
|-------------------------|--------------------------------------|
| Charlotte R. Ransbottom | 2221 N. Ballard Road, #9 |
| Cindy L. Baemmert | 1416 S. Jefferson Street |
| Eric M. Buss | 4734 Palmer Court, Sherwood |
| Kay A. Hartjes | N3611 County Road N, Freedom |
| Pamela K. Edwards | 905 Jacobsen Road, #J, Neenah |
| Stephanie M. Lahti | 522 9 th Street, Menasha |
| Allison H. Blair | 2300 Palisades Drive |
| Chris R. Kilsdonk | 3509 E. Glory Lane #1 |
| Christen S. Reinke | 1014 N. Division Street |
| Courtney J. Thoma | W5262 Arbor Vitae Court, Sherwood |
| Crystal E. Thiemer | 1310 W. Homestead Drive |
| Damodar Pandey | 3045 Winnipeg Street, Menasha |
| Elizabeth A. Knapp | 3706 Wayman Court |
| Denise D. Thor | 2641 N. Linwood Avenue |
| Grant T. Anderla | 4012 N. Windcross Drive |
| Jakki L. Franzen | 819 E. Roeland Avenue |
| Jessica M. Roh | 532 ½ W. College Avenue #102 |
| Jim Thao | 1209 N. Richmond Street |
| Justin T. Shapiro | 80 Bellevue Place |
| Maria Lopez-Garcia | 1009 E. Kramer Street |
| Mechelle M. Warner | 3383 E. Newberry Street |
| Randy M. Reinke | 7 Greves Court |
| Travis S. Menard | 410 Bicentennial Court, #7, Kaukauna |

CITY OF APPLETON
Department of Public Works
MEMORANDUM

TO: ☒ **Finance Committee**
☐ **Municipal Services Committee**
☐ **Utilities Committee**

SUBJECT: Award of Contract

The Department of Public Works recommends that the following described work:

Unit H-15 Spartan Drive & Haymeadow Ave Sewer Construction

Be awarded to:

Name: Kruczek Construction Inc.

Address: 3636 Kewaunee Rd

Green Bay, WI 54311

In the amount of : \$427,427.00

With a 4.7 % contingency of : \$20,000.00

For a project total not to exceed : \$447,427.00

**** OR ****

In an amount Not To Exceed : _____

Budget: \$1,063,241.00

Estimate: \$559,605.00

Committee Date: 06/22/16

Council Date: 07/06/16

BID TABULATION

SPARTAN DRIVE AND HAYMEADOW AVENUE SEWER AND FORCEMAIN

UNIT H-15

| Item | Description | Qty./Unit | #1 - Kruczek Construction | | #2 - Woleske Const. Co. | | #3 - PTS Contractors | | #4 - Dornier, Inc. | | |
|---------------------------|---|-----------|---------------------------|------------|-------------------------|-------------|----------------------|------------|--------------------|------------|--------------|
| | | | Unit Price/\$ | Total/\$ | Unit Price/\$ | Total/\$ | Unit Price/\$ | Total/\$ | Unit Price/\$ | Total/\$ | |
| 1. | Furnish & Install 18" Sanitary Sewer | 106 | lin.ft. | \$129.00 | \$13,674.00 | \$144.00 | \$15,264.00 | \$156.60 | \$16,599.60 | \$200.00 | \$21,200.00 |
| 2. | Furnish & Install 15" Sanitary Sewer | 95 | lin.ft. | \$89.20 | \$8,474.00 | \$124.00 | \$11,780.00 | \$151.50 | \$14,392.50 | \$100.00 | \$9,500.00 |
| 3. | Furnish & Install 12" Sanitary Sewer | 1,100 | lin.ft. | \$85.00 | \$93,500.00 | \$49.00 | \$53,900.00 | \$91.70 | \$100,870.00 | \$100.00 | \$110,000.00 |
| 4. | Furnish & Install 10" Sanitary Sewer | 810 | lin.ft. | \$83.00 | \$67,230.00 | \$70.00 | \$56,700.00 | \$82.70 | \$66,987.00 | \$115.00 | \$93,150.00 |
| 5. | Furnish & Install 8" Sanitary Sewer | 115 | lin.ft. | \$80.00 | \$9,200.00 | \$64.00 | \$7,360.00 | \$80.85 | \$9,297.75 | \$100.00 | \$11,500.00 |
| 6. | Furnish & Install 10" Sanitary Force Main | 110 | lin.ft. | \$45.00 | \$4,950.00 | \$44.00 | \$4,840.00 | \$65.15 | \$7,166.50 | \$44.00 | \$4,840.00 |
| 7. | Furnish & Install 4" Sanitary Force Main | 1,035 | lin.ft. | \$26.50 | \$27,427.50 | \$29.00 | \$30,015.00 | \$34.00 | \$35,190.00 | \$35.00 | \$36,225.00 |
| 8. | Furnish & Install 12' dia. Sanitary Wet well | 28 | vert.ft. | \$4,100.00 | \$114,800.00 | \$5,064.00 | \$141,792.00 | \$4,754.00 | \$133,112.00 | \$3,500.00 | \$98,000.00 |
| 9. | Furnish & Install Std. 4' dia. Sanitary Manhole | 134 | vert.ft. | \$225.00 | \$30,150.00 | \$314.00 | \$42,076.00 | \$315.00 | \$42,210.00 | \$265.00 | \$35,510.00 |
| 10. | Sanitary Outside Drop | 13.5 | vert.ft. | \$285.00 | \$3,847.50 | \$323.00 ** | \$4,360.50 | \$555.00 | \$7,492.50 | \$460.00 | \$6,210.00 |
| 11. | Furnish & Install Sanitary Manhole Casting | 3 | ea. | \$696.00 | \$2,094.00 | \$444.00 | \$1,332.00 | \$755.00 | \$2,265.00 | \$410.00 | \$1,230.00 |
| 12. | Furnish & Install 4" dia. 45° bend | 5 | ea. | \$235.00 | \$1,175.00 | \$300.00 | \$1,500.00 | \$300.00 | \$1,500.00 | \$225.00 | \$1,125.00 |
| 13. | Furnish & Install Section #305 1 1/4" Densely Graded Base | 700 | ton | \$19.00 | \$13,300.00 | \$12.00 | \$8,400.00 | \$11.46 | \$8,022.00 | \$18.50 | \$12,950.00 |
| 14. | Furnish & Install Type "D-M" Inlet Protection | 2 | ea. | \$118.00 | \$236.00 | \$50.00 | \$100.00 | \$190.00 | \$380.00 | \$200.00 | \$400.00 |
| 15. | Furnish & Install Silt Fence | 1,570 | lin.ft. | \$1.50 | \$2,355.00 | \$3.00 | \$4,710.00 | \$2.15 | \$3,375.50 | \$2.15 | \$3,375.50 |
| 16. | Furnish Site Grading | 4,835 | sq.yds. | \$2.40 | \$11,604.00 | \$5.80 | \$28,043.00 | \$2.95 | \$14,263.25 | \$5.00 | \$24,175.00 |
| 17. | Furnish & Install Seed, Fertilizer, & Mulch | 21,360 | sq.yds. | \$1.00 | \$21,360.00 | \$0.80 | \$17,088.00 | \$0.72 | \$15,379.20 | \$0.75 | \$16,020.00 |
| 18. | Furnish & Install Extra Stone Bedding | 100 | ton | \$15.00 | \$1,500.00 | \$5.00 | \$500.00 | \$25.00 | \$2,500.00 | \$12.00 | \$1,200.00 |
| 19. | Contaminated Soil Removal | 10 | ton | \$55.00 | \$550.00 | \$40.00 | \$400.00 | \$64.00 | \$640.00 | \$25.00 | \$250.00 |
| TOTAL ITEMS 1 THROUGH 19: | | | | | \$427,427.00 | ** | \$430,160.50 | | \$481,642.80 | | \$486,850.50 |

** CORRECTED FIGURE

SPARTAN DRIVE AND HAYMEADOW AVENUE SEWER AND FORCEMAIN

BID TABULATION

| Item | Description | Qty./ | Unit | #5 - Donald Hietpas | | #6 - Globe Contractors | | #7 - Advance Const. | |
|---------------------------|---|--------|----------|---------------------|---------------------|------------------------|---------------------|---------------------|---------------------|
| | | | | Unit Price/\$ | Total/\$ | Unit Price/\$ | Total/\$ | Unit Price/\$ | Total/\$ |
| 1. | Furnish & Install 18" Sanitary Sewer | 106 | lin.ft. | \$225.00 | \$23,850.00 | \$180.00 | \$19,080.00 | \$231.00 | \$24,486.00 |
| 2. | Furnish & Install 15" Sanitary Sewer | 95 | lin.ft. | \$195.00 | \$18,525.00 | \$110.00 | \$10,450.00 | \$120.00 | \$11,400.00 |
| 3. | Furnish & Install 12" Sanitary Sewer | 1,100 | lin.ft. | \$116.00 | \$127,600.00 | \$104.00 | \$114,400.00 | \$140.00 | \$154,000.00 |
| 4. | Furnish & Install 10" Sanitary Sewer | 810 | lin.ft. | \$115.00 | \$93,150.00 | \$102.00 | \$82,620.00 | \$137.00 | \$110,970.00 |
| 5. | Furnish & Install 8" Sanitary Sewer | 115 | lin.ft. | \$150.00 | \$17,250.00 | \$100.00 | \$11,500.00 | \$135.00 | \$15,525.00 |
| 6. | Furnish & Install 10" Sanitary Force Main | 110 | lin.ft. | \$95.00 | \$10,450.00 | \$60.00 | \$6,600.00 | \$115.00 | \$12,650.00 |
| 7. | Furnish & Install 4" Sanitary Force Main | 1,035 | lin.ft. | \$28.00 | \$28,980.00 | \$50.00 | \$51,750.00 | \$28.00 | \$28,980.00 |
| 8. | Furnish & Install 12" dia. Sanitary Wet well | 28 | vert.ft. | \$3,872.00 | \$108,416.00 | \$4,000.00 | \$112,000.00 | \$4,500.00 | \$125,000.00 |
| 9. | Furnish & Install Std. 4' dia. Sanitary Manhole | 134 | vert.ft. | \$400.00 | \$53,600.00 | \$170.00 | \$22,780.00 | \$380.00 | \$50,920.00 |
| 10. | Sanitary Outside Drop | 13.5 | vert.ft. | \$550.00 | \$7,425.00 | \$300.00 | \$4,050.00 | \$340.00 | \$4,590.00 |
| 11. | Furnish & Install Sanitary Manhole Casting | 3 | ea. | \$625.00 | \$1,875.00 | \$600.00 | \$1,800.00 | \$630.00 | \$1,890.00 |
| 12. | Furnish & Install 4" dia. 45° bend | 5 | ea. | \$225.00 | \$1,125.00 | \$200.00 | \$1,000.00 | \$175.00 | \$875.00 |
| 13. | Furnish & Install Section #305 1 1/4" Densely Graded Base | 700 | ton | \$13.65 | \$9,555.00 | \$18.00 | \$12,600.00 | \$15.00 | \$10,500.00 |
| 14. | Furnish & Install Type "D-W" Inlet Protection | 2 | ea. | \$125.00 | \$250.00 | \$100.00 | \$200.00 | \$150.00 | \$300.00 |
| 15. | Furnish & Install Silt Fence | 1,570 | lin.ft. | \$1.50 | \$2,355.00 | \$2.00 | \$3,140.00 | \$2.00 | \$3,140.00 |
| 16. | Furnish Site Grading | 4,835 | sq.yds. | \$2.20 | \$10,637.00 | \$8.00 | \$38,680.00 | \$8.00 | \$38,680.00 |
| 17. | Furnish & Install Seed, Fertilizer, & Mulch | 21,360 | sq.yds. | \$1.50 | \$32,040.00 | \$3.00 | \$64,080.00 | \$1.50 | \$32,040.00 |
| 18. | Furnish & Install Extra Stone Bedding | 100 | ton | \$11.00 | \$1,100.00 | \$20.00 | \$2,000.00 | \$10.00 | \$1,000.00 |
| 19. | Contaminated Soil Removal | 10 | ton | \$50.00 | \$500.00 | \$60.00 | \$600.00 | \$50.00 | \$500.00 |
| TOTAL ITEMS 1 THROUGH 19: | | | | | <u>\$548,683.00</u> | | <u>\$559,330.00</u> | | <u>\$628,446.00</u> |

** CORRECTED FIGURE

| | | | | #1 - August Winter & Sons, Inc. | |
|-------------------|---|--------------|-------------|---------------------------------|---------------------|
| <u>Item</u> | <u>Description</u> | <u>Qty./</u> | <u>Unit</u> | Unit | |
| | | | | Price/\$ | Totals/\$ |
| 1 | Arbutus Park Stormwater Lift Station Reconstruction | 1 | lump sum | \$215,000.00 | \$215,000.00. |
| TOTAL BID ITEM 1: | | | | | <u>\$215,000.00</u> |

REPORT OF THE FINANCE COMMITTEE

PROJECT LIMITS:

4-P-16

SIDEWALK CONSTRUCTION

Lake Park Road from Plank Road to Northshore Boulevard

In accordance with the preliminary resolution of the Common Council dated July 6, 2016, we herewith submit our report on the assessment of benefits on the above named construction.

This report consists of the following:

Schedule A - Preliminary plans and specifications on file in the office of the Director of Public Works.

Schedule B - The total cost within the project limits in accordance with the plans and specifications in Schedule A is **\$13,605.50.**

Schedule C - Proposed Assessments. The properties included within the project limits are benefited and the work or improvements constitute an exercise of the police power. The total value of assessments is **\$13,008.20.**

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Finance Committee



MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 16, 2016

RE: Letter of Intent for Southpoint Commerce Park

The City has received a Letter of Intent (attached) from Commercial Horizons for development of a World Headquarters, Innovation Center and Pilot Plant for an undisclosed company to purchase Lots 12 and 13 of Plat 1 in the Southpoint Commerce Park (map attached).

The proposed purchase price is \$45,000 per acre which is the City's asking price for Plank Road frontage land in the Southpoint Commerce Park. The two parcels comprise 6.83 acres. Other requested terms, including the requested framework of the Development Agreement are also included in the Letter of Intent. As stated in the LOI, "this Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of property."

Lot 13 is not currently owned by the City. To facilitate this transaction, the City would have to repurchase Lot 13 under Section 13 of the Deed Restrictions and Covenants, Repurchase Rights. The estimated repurchase price, assuming an August 1, 2016 closing date, using the guidelines in the Deed Restrictions and Covenants is approximately \$152,749 (calculations attached).

Staff Recommendation:

CEDD be authorized to accept the basic terms of the Letter of Intent from Commercial Horizons dated June 7, 2016 and continue to negotiate terms toward offer to purchase and development agreement for subject parcel.

CEDD be authorized to proceed with the Repurchase of Lot 13, Plat 1, in the Southpoint Commerce Park under the terms outlined in Section 13 – Repurchase Rights.

Matthew Rehbein

From: Monica Stage
Sent: Wednesday, June 08, 2016 8:56 AM
To: Matthew Rehbein
Subject: FW: Southpoint Commerce Park
Attachments: LOI - City of Appleton.docx

From: Paul Klister [mailto:pkllister@commercialhorizons.com]
Sent: Tuesday, June 07, 2016 8:21 PM
To: Karen Harkness <Karen.Harkness@Appleton.org>; Monica Stage <Monica.Stage@appleton.org>; matt.rehbein@appleton.org
Cc: Mike Lokensgard <mlokensg@gklaw.com>
Subject: Southpoint Commerce Park

Hello all – please see revised LOI that changes our price per acre. Thank you, Paul



Paul Klister | Principal

100 W. Lawrence St #214 Appleton, WI 54911
P.O. Box 115 Appleton, WI 54912-0115
Office: (920) 830.9646 | Fax: (920) 830.9647
Mobile: (920) 428-7007
pkllister@commercialhorizons.com

June 7, 2016

City of Appleton
Community & Economic Development
Attn: Matt Rehbein
100 N. Appleton Street
Appleton, WI 54911

Re: LETTER OF INTENT for the Purchase and Sale of Real Property known as Lots 12 & 13 of the Southpoint Commerce Park, Appleton, WI (the "Property"), and Development Agreement.

Dear Mr. Rehbein:

We are pleased to present to you this Letter of Intent which sets forth the terms on which Commercial Horizons, Inc. (the "{Purchaser}") is willing to purchase lots 12 & 13 of the Southpoint commerce Park, Appleton, Wisconsin, from the City of Appleton ("Seller"). Said purchase is for the immediate development of the world Headquarters, Innovation Center and Pilot Plant for Company to be named at a later date ("Company").

Terms and conditions to be included in the Purchase and Sale Agreement include the following:

1. **Purchase Price:** \$307,350.00 (\$45,000.00 per acre for 6.83 acres).
Purchase price would be paid as follows:
 - a. Earnest Money deposit of \$10,000.00 will be paid within 5 days of executed Purchase and Sale Agreement and held in Escrow at a Title Company agreed to by the parties.
 - b. Balance of purchase price to be paid by cash at the time of closing.
2. **Site Development:** Seller shall be responsible for the costs associated with the development of the Property including installation of adequate offsite storm water piping and/or storm water management basin and extension of utilities up to the property line. This offer is contingent upon the community development retention pond being adequate based on the final site design.
3. **Closing Date:** Closing shall take place on or before ten (10) days after:
 - i. Obtaining all necessary municipal approvals;
 - ii. Municipal approval of a Development Agreement between the parties.

4. **Inspection/due diligence period:** Purchaser shall have a 90 day inspection period from the time of the execution of the Purchase and Sale Agreement to complete all environmental, geotechnical, zoning, flood plain, title, and engineering reviews. Seller shall provide any and all information in its possession in a timely manner, including, but not limited to: all maps,, geotechnical and environmental reports; title. Purchaser shall be granted two (2) extension periods of 45 days each if unable to complete all due diligence.
5. **Title:** At closing marketable and insurable title to the Property shall be conveyed to Purchaser of Purchaser's designee by general warranty deed in fee simple absolute free, clear and unencumbered, subject only to easements of record, the leases to be approved by Purchaser during the Inspection period and Installments of real estate taxes a lien but not yet due and payable.
6. **Closing Costs:** Seller shall pay all state and local conveyance fees. Purchaser shall be responsible for recording costs of the deed and other documents that Purchaser requires be recorded.
7. **Real Estate Taxes:** Seller shall pay its prorated share of real estate taxes based on the prior year known property tax. Buyer shall receive a credit against the Purchase Price at closing.
8. **Commission:** Seller shall be responsible for a commission associated with this transaction equal to 8% of \$307,350.00 payable to Commercial Horizons, Inc. attn.: Mike Maedke.

DEVELOPMENT AGREEMENT

Company is an International, Innovator that has engaged Commercial Horizons, Inc. ("Developer") to assist in procuring a site and developing and leasing a new facility that will house its world headquarters. The development will include class "A" office space, laboratories and a pilot plant. Due to the unique nature of this facility, the cost and expense to develop and operate far exceed what the cost to develop a more customary office building. Thus, a substantial financial gap is created and but for, financial assistance to be provided by the City of Appleton, Company would not enter into a lease for the Project and Developer would not be able to proceed with the project.

1. **Developer Obligations:** Developer shall construct the Project in accordance with all applicable City zoning and building codes, ordinances and regulations. Developer warrants and represents to the City that the Project will contain at least 37,000 square feet of space and that the total

development costs expended on the Project (inclusive of personal property and equipment) will be approximately \$17,000,000.00.

2. **City Obligations:** Subject to mutually acceptable terms, covenants and conditions of a Development Agreement and applicable provisions of law, and as an inducement by the City of Appleton to Company and Developer to carry out the Project, the City of Appleton will pay to Company a development investment (the "Investment"). The principal amount of the Investment shall be the lesser of: (i) Three Million Seven Hundred Forty Thousand Dollars (\$3,740,000.00); or (ii) twenty two percent (22%) of the total equalized value of the real and personal property comprising the Project as of January 1 of the year in which the Project is first fully assessed – as such equalized value is determined by the Wisconsin Department of Revenue, minus the base value of the Property, as determined by the Wisconsin Department of Revenue. The Investment will be paid directly to Company in a manner to be negotiated and will include interest on the Investment at the rate of five percent (5%) per annum. Additionally, the City of Appleton will reinvest the amount of the purchase price of the land into the project.

This Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of Property. It is, however, an expression of certain terms and conditions to be included in the Purchase and Sale Agreement and Development Agreement. Upon receipt of a signed copy of this Letter of Intent, Purchaser shall instruct its legal counsel to prepare the Purchase and Sale Agreement. Seller and Purchaser shall work diligently and in good faith to enter into the Purchase and Sale Agreement within forty-five (45) days after the acceptance of this letter of intent by Seller.

If the terms of this Letter of Intent are acceptable, please sign and return to Paul Klister (Commercial Horizons, Inc.). Thank you.

AGREED TO BY PURCHASER:

Name: _____
Title: _____
Date: _____

AGREED TO BY SELLER:

Name: _____
Title: _____
Date: _____

CALCULATION OF REPURCHASE PRICE PER DEED RESTRICTIONS FOR LOT 13, PLAT 1 SPCP

| | |
|----------------|---------------|
| Purchase Price | \$167,400.00 |
| Sale Date | Oct. 20, 2008 |
| Lot Size | 3.72 Ac |

| | |
|--|-----------|
| Sum of original purchase price | \$167,400 |
| Special Assessments (Add) | - |
| Unpaid Property Taxes (Deduct) | 470 |
| Pro-Rata Current yr. Property Taxes (Deduct) | 2,196 * |
| Title Insurance Premium (Deduct) | 93 |
| RE Commission pd. At closing (Deduct) | 13,392 |
| Liens and encumbrances (Deduct) | ** |
| Option Fee (Deduct) | - |

| | |
|---|-----------|
| ESTIMATED REPURCHASE PRICE | \$151,249 |
| TO SELLER PER DEED RESTRICTION LANGUAGE | |

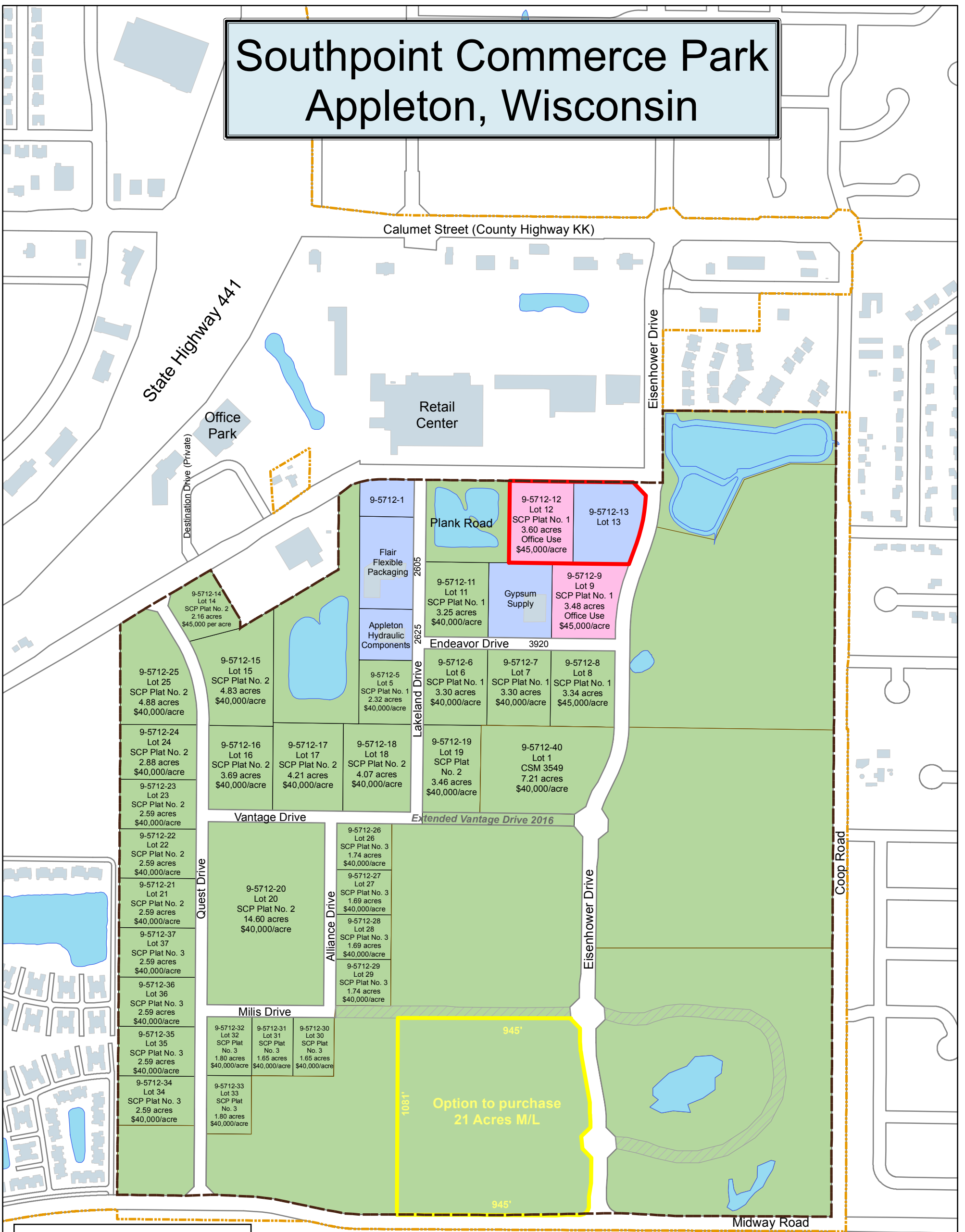
| | |
|-----------------------------|------|
| Estimated Transaction Costs | 1500 |
|-----------------------------|------|

| | |
|-----------------------------|------------------|
| TOTAL ESTIMATED COST | \$152,749 |
|-----------------------------|------------------|

*Assumes close date Aug 1, 2016

**Don't know liens/encumbrances

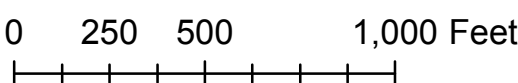
Southpoint Commerce Park Appleton, Wisconsin



Legend

- Park Boundary
- Subject Parcels
- Option to purchase 21 acres M/L
- Proposed Roads
- City Limits
- Proposed Parcel Lines
- AppletonGIS.DBO.ActionPoly
- For Sale
- Office Use
- Sold

Exhibit A
Available Sites





“...meeting community needs...enhancing quality of life.”

MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 14, 2016

RE: Request to Waive Repurchase Rights for Lot 2 of CSM 3490 in the Northeast Business Park

The City has received a request to waive their repurchase rights per Section 11 of the Deed Restrictions and Covenants (attached) for the above-mentioned lot to allow for the transfer from Nicolet National Bank to C3 Corporation (accepted offer to purchase attached).

Nicolet Bank acquired this lot through foreclosure in November of 2014. C3 Corporation is currently located in the Northeast Business Park, immediately north of the subject parcel. It is anticipated that C3 would use this land for expansion.

Staff Recommendation:

The Community and Economic Development Committee waive the City's Repurchase Rights for Lot Two (2) of CSM #3490 in the Northeast Business Park, allowing the transfer from Nicolet National Bank to C3 Corporation or Assigns. This waiver of repurchase rights is not transferable, survivable, or assignable. The City's Repurchase Rights would remain on this property.

EXHIBIT B

DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO LOT 2 OF CSM # 3490 (TAX KEY # 31-1-6723-10)
IN THE NORTHEAST BUSINESS PARK

This conveyance is made subject to the following conditions, covenants, and understandings which shall be binding upon the vendee and his/her heirs, successors, and assigns:

1. *Setbacks:*

- A. *Front Yard:* No building shall be constructed on the site nearer than forty (40) feet of the right-of-way of any public street or highway. In the case of corner lots, both forty (40) foot setbacks will apply.
- B. *Side and Rear Yards:* Minimum side and rear yards shall be twenty-five (25) feet.
- C. *State Highways:* A fifty (50) foot building setback shall be observed along U.S.H. 41 and U.S.H 441.

2. *Land Use:*

A. Permitted Uses

- 1. Manufacturing;
- 2. Research, development and testing laboratories;
- 3. Wholesaling, warehousing and distribution;
- 4. Office operations only if they are an integral part of and a necessary adjunct to a permitted use;
- 5. Showrooms and incidental retail sales provided that:
 - a) Such showrooms and on-premises sales are limited to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use.
 - b) All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
 - c) The industrial character of the property is maintained;
- 6. Other land uses may be considered for approval by the Community Development Committee if a determination is made that the project fits the development objectives of the City.

3. *Building Standards*

- A. Any building erected shall be at least 5,000 square feet in area and occupy at least 10 percent of the land area.
- B. Buildings shall be designed by an Architect or Engineer. No side, elevation or facade of a building or structure shall be unexposed to public view; consequently, all sides, elevations, or facades of all buildings and structures shall be visually pleasing and architecturally and aesthetically comparable with the surrounding environment.
- C. The majority of exterior and externally visible opaque surfaces shall be constructed of not more than three of the following types of materials (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms):
 - 1. Brick;
 - 2. Architectural precast concrete panels (surface finish to be painted, stained or exposed aggregate);
 - 3. Decorative concrete block (for no more than 50% of the exterior building wall area);
 - 4. Cut stone;
 - 5. Exterior insulation and finish systems such as Drivit or Sunlar;
 - 6. Metal panels (permitted only for building expansion walls);
 - 7. Other building materials being developed and to be developed by the construction industry. The use of such materials will be reviewed by the Community Development Committee on a case-by-case basis. The Community Development Committee may assign this review of plans to the Economic Development Department.
- D. Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness, and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.
- E. Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.
- F. No loading dock shall face the street unless the site configuration is such that it is unavoidable. In that event, the Community Development Committee shall review and approve the location of the loading dock.
- G. Ancillary structures will be approved by the Community Development Committee. Approval may be granted only if such structures are necessary to the principal use of the building site, are in architectural and aesthetic conformance

with other buildings or structures on the site, are properly screened, meet all requirements of these covenants and are otherwise satisfactory to the Community Development Committee at its sole discretion.

4. *Landscaping:*

- A. *Landscape Plan:* The landscaping upon any building site or lot shall be carried out in accordance with a detailed landscaping plan which has been reviewed and approved in writing by the City's site plan review committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant material, planting size, root condition, and quantity of all plant material. The plan shall show all ground cover and mulch areas, landscape and construction materials, and construction details.
- B. *Landscaping Methods:* Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkler systems, fountains, storm run-off retention ponds, reflective ponds, and landscape lighting.
- C. *Plant Material:* Selected plant material should provide for a variety of shade trees, evergreen trees, and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:
 - 1. Disease and insect resistance;
 - 2. Hardiness to the area;
 - 3. The ability to provide seasonal interest;
 - 4. Future maintenance considerations;
 - 5. Ability of plant material to accomplish its intended purpose in each placement.
- D. *Time for Completion:* All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.
- E. *Maintenance:* The owner shall be responsible for maintaining all landscaping as approved on the original plan for his site and adjacent unpaved street rights-of-way. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Department of Planning. Landscaped areas, materials,

fixtures, and improvements shall be maintained by the owner of the building site, or by such owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, replacement of dead plantings, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the building site landscaping in a healthy state of growth and visually attractive in appearance.

If the owner or the owner's assigns fail to maintain the landscaping and site per the approved landscaping plan in this section, the City of Appleton or its Agent has the right to enter the site and conduct such maintenance and to seek full reimbursement.

5. ***Parking, Loading***

Off-street parking and loading areas shall be provided on each building site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all site occupants and visitors and comply with the City's Zoning Ordinance regarding parking standards. All parking and loading areas shall be paved. Parking shall be permitted within the minimum front yard setback area, however, it shall be located no closer than fifteen (15) feet to the public right-of-way line. An 80 percent screen with a minimum height of 22' shall be provided for all parking areas adjacent to the street right-of-way.

6. ***Outdoor Storage:***

No outside storage of any kind shall be permitted unless such stored materials are visually screened from all streets with a suitable fence, vegetation, berm, or combination thereof. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Said storage shall be limited to behind the front line of the building on the property, and within the building setback lines. No waste material or refuse may be dumped or permitted to remain on any part of the property outside of the buildings. Storage of fuel oil or other bulk fluids must be underground. All storage areas shall be paved.

7. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Community Development Committee for review. Ground signs must be set back 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee. Building signs must comply with the City Sign Code.

8. ***Maintenance Responsibilities:***

- A. Each owner shall keep its property, all contiguous street right-of-way to the edge of the pavement, and all drainage and easement areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:
1. The removal of all litter, trash, refuse, and wastes;
 2. Compliance with the City's noxious weed control ordinance, including the mowing of all grass areas;
 3. The maintenance of exterior lighting, signs, and mechanical facilities;
 4. The keeping of all exterior building surfaces in a cleaned, well-maintained condition;
 5. The maintenance of all drainage ways including the removal of all debris, weeds, and silt.
- B. The owner of any undeveloped lands shall maintain said lands free of rubbish, noxious weeds, and mosquito breeding pond conditions.

9. ***Site Plan Review:***

Prior to the construction or alteration of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the plans for such building or improvements shall be submitted to the Site Plan Review Committee in accordance with Section 23-171 of the City Zoning Code. The plans shall be reviewed within thirty days (30) days after they have been submitted and approval or disapproval given in writing.

10. ***Approval of Plans:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the owner shall first submit its building plans, specifications, site and landscape plans, and an elevation sketch of all improvements to be placed thereon to the Community Development Committee for its written approval. In the event the Committee or its designee shall fail to approve or disapprove in writing such building plans, specifications, site and landscape plans, and

elevation sketch within thirty (30) days after they have been submitted to them, such approval will not be required and these covenants and restrictions will be deemed to have been complied with. The Community Development Committee may delegate this review of plans to the Economic Development Department.

11. *Repurchase Rights:*

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, the City has the option to repurchase said property. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, pro-ration of the current years property taxes to date of closing, title insurance policy premium, real estate commission paid at time of original closing, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner. The purchase price shall be computed as in Article XI above. Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense.

12. *Subdivision of Lots:*

without the written consent of the Community Development Committee. No owner may sell, lease or rent less than all of the lot without the written consent of the Community Development Committee. The Community Development Committee may, in granting its consent, attach any conditions it deems appropriate. The foregoing prohibition shall not apply to occupancy leases of space in a building made in the ordinary course of business.

13. *Waiver of Notice:*

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and

such waiver shall be part of the negotiations.

14. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these covenants and restrictions, or any one or more of them, where the circumstances, in its sole and exclusive judgement, justifies the granting of same.

15. ***Right to Enter:***

The Community Development Committee shall have the right to enter upon any building site or other lot within the park for the purpose of ascertaining whether the owner of said site or lot is complying with these covenants and restrictions.

16. ***Enforcement:***

In the event that the owner fails to perform in accordance with these covenants and restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special assessment or special charge. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

17. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said covenants and restrictions at the time of its violation shall in no way affect any of the other covenants or restrictions nor be deemed a waiver of the right to enforce the same thereafter.

18. ***Term:***

Each lot shall be conveyed subject to the covenants and restrictions set forth herein, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty (30) years from the date of this Declaration of Covenants and Restrictions is recorded, after which time said covenants and restrictions as are then in force and effect shall be automatically renewed for successive periods of ten (10) years each, unless an instrument terminating such covenants and restrictions is recorded with the Outagamie County Register of Deeds by the Common Council as evidenced by a resolution duly adopted by a majority of all members of the Common Council.

WB-13 VACANT LAND OFFER TO PURCHASE

1 LICENSEE DRAFTING THIS OFFER ON April 27, 2016 [DATE] IS (AGENT OF BUYER)
2 (AGENT OF SELLER/LISTING BROKER) (AGENT OF BUYER AND SELLER) **STRIKE THOSE NOT APPLICABLE**

3 **GENERAL PROVISIONS** The Buyer, C3 Corporation or Assigns

4 _____, offers to purchase the Property
5 known as [Street Address] 3.92 acres - E. Venture Drive
6 in the City of Appleton, County of Outagamie, Wisconsin (Insert
7 additional description, if any, at lines 458-464 or 526-534 or attach as an addendum per line 525), on the following terms:

8 ■ PURCHASE PRICE: One Hundred Forty Thousand

9 _____ Dollars (\$ 140,000.00).

10 ■ EARNEST MONEY of \$ _____ accompanies this Offer and earnest money of \$ 1,500.00
11 will be mailed, or commercially or personally delivered within -3- days of acceptance to listing broker or
12 payable to Pfefferle Company Trust Account.

13 ■ THE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.

14 ■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price the Property, all Fixtures on the Property on the
15 date of this Offer not excluded at lines 18-19, and the following additional items: NA

18 ■ NOT INCLUDED IN PURCHASE PRICE: NA

20 **CAUTION: Identify Fixtures that are on the Property (see lines 290-294) to be excluded by Seller or which are rented
21 and will continue to be owned by the lessor.**

22 **NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are
23 included/excluded. Annual crops are not part of the purchase price unless otherwise agreed.**

24 ■ ZONING: Seller represents that the Property is zoned: M-1 Industrial

25 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed one copy of the Offer, or separate but identical
26 copies of the Offer.

27 **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider whether short term deadlines
28 running from acceptance provide adequate time for both binding acceptance and performance.**

29 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on
30 or before Monday May 2, 2016 4:00 PM. Seller may keep the Property on the
31 market and accept secondary offers after binding acceptance of this Offer.

32 **CAUTION: This Offer may be withdrawn prior to delivery of the accepted Offer.**

33 **OPTIONAL PROVISIONS** TERMS OF THIS OFFER THAT ARE PRECEDED BY AN OPEN BOX (☐) ARE PART OF THIS
34 OFFER ONLY IF THE BOX IS MARKED SUCH AS WITH AN "X." THEY ARE NOT PART OF THIS OFFER IF MARKED "N/A"
35 OR ARE LEFT BLANK.

36 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and
37 written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 38-56.

38 (1) **Personal Delivery:** giving the document or written notice personally to the Party, or the Party's recipient for delivery if
39 named at line 40 or 41.

40 Seller's recipient for delivery (optional): _____

41 Buyer's recipient for delivery (optional): _____

42 ☐ (2) **Fax:** transmission of the document or written notice to the following telephone number:

43 Seller: (_____) _____

44 Buyer: (_____) _____

45 ☐ (3) **Commercial Delivery:** depositing the document or written notice fees prepaid or charged to an account with a
46 commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line 40 or 41, for
47 delivery to the Party's delivery address at line 49 or 50.

48 ☒ (4) **U.S. Mail:** depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party,
49 or to the Party's recipient for delivery if named at line 40 or 41, for delivery to the Party's delivery address at line 49 or 50.

50 Delivery address for Seller: c/o Pat Connor Newmark Pfefferle 200 E. Washington St Appleton, WI 549

51 Delivery address for Buyer: c/o Bob Rossi Newmark Pfefferle 200 E. Washington St Appleton, WI 5491

52 ☒ (5) **E-Mail:** electronically transmitting the document or written notice to the Party's e-mail address, if given below at line
53 55 or 56. If this is a consumer transaction where the property being purchased or the sale proceeds are used primarily for
54 personal, family or household purposes, each consumer providing an e-mail address below has first consented electronically
55 to the use of electronic documents, e-mail delivery and electronic signatures in the transaction, as required by federal law.

56 E-Mail address for Seller (optional): patc@ngpwi.com

57 E-Mail address for Buyer (optional): bobr@ngpwi.com

58 **PERSONAL DELIVERY/ACTUAL RECEIPT** Personal delivery to, or Actual Receipt by, any named Buyer or Seller
constitutes personal delivery to, or Actual Receipt by, all Buyers or Sellers.

OCCUPANCY Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer at lines 458-464 or 526-534 or in an addendum attached per line 525. At time of Buyer's occupancy, Property shall be free of all debris and personal property except for personal property belonging to current tenants, or that sold to Buyer or left with Buyer's consent. Occupancy shall be given subject to tenant's rights, if any.

PROPERTY CONDITION REPRESENTATIONS Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge of Conditions Affecting the Property or Transaction (lines 163-187 and 246-278) other than those identified in the Seller's disclosure report dated _____, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference **COMPLETE DATE OR STRIKE AS APPLICABLE** and _____

INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE REPORT

CLOSING This transaction is to be closed no later than June 30, 2016

_____ at the place selected by Seller, unless otherwise agreed by the Parties in writing.

CLOSING PRORATIONS The following items, if applicable, shall be prorated at closing, based upon date of closing values: real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owners association assessments, fuel and NA

CAUTION: Provide basis for utility charges, fuel or other prorations if date of closing value will not be used.

Any income, taxes or expenses shall accrue to Seller, and be prorated at closing, through the day prior to closing.

Real estate taxes shall be prorated at closing based on [CHECK BOX FOR APPLICABLE PRORATION FORMULA]:

☒ The net general real estate taxes for the preceding year, or the current year if available (Net general real estate taxes are defined as general property taxes after state tax credits and lottery credits are deducted) (NOTE: THIS CHOICE APPLIES IF NO BOX IS CHECKED)

☐ Current assessment times current mill rate (current means as of the date of closing)

☐ Sale price, multiplied by the municipality area-wide percent of fair market value used by the assessor in the prior year, or current year if known, multiplied by current mill rate (current means as of the date of closing)

CAUTION: Buyer is informed that the actual real estate taxes for the year of closing and subsequent years may be substantially different than the amount used for proration especially in transactions involving new construction, extensive rehabilitation, remodeling or area-wide re-assessment. Buyer is encouraged to contact the local assessor regarding possible tax changes.

☐ Buyer and Seller agree to re-prorate the real estate taxes, through the day prior to closing based upon the taxes on the actual tax bill for the year of closing, with Buyer and Seller each owing his or her pro-rata share. Buyer shall, within 5 days of receipt, forward a copy of the bill to the forwarding address Seller agrees to provide at closing. The Parties shall re-prorate within 30 days of Buyer's receipt of the actual tax bill. Buyer and Seller agree this is a post-closing obligation and is the responsibility of the Parties to complete, not the responsibility of the real estate brokers in this transaction.

LEASED PROPERTY If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **STRIKE ONE** lease(s), if any, are Not Leased

_____. Insert additional terms, if any, at lines 458-464 or 526-534 or attach as an addendum per line 525.

NA GOVERNMENT PROGRAMS: Seller shall deliver to Buyer, within _____ days of acceptance of this Offer, a list of all federal, state, county, and local conservation, farmland, environmental, or other land use programs, agreements, restrictions, or conservation easements, which apply to any part of the Property (e.g., farmland preservation agreements, farmland preservation or exclusive agricultural zoning, use value assessments, Forest Crop, Managed Forest, Conservation Reserve Program, Wetland mitigation, shoreland zoning mitigation plan or comparable programs), along with disclosure of any penalties, fees, withdrawal charges, or payback obligations pending, or currently deferred, if any. This contingency will be deemed satisfied unless Buyer delivers to Seller, within seven (7) days of Buyer's Actual Receipt of said list and disclosure, or the deadline for delivery, whichever is earlier, a notice terminating this Offer based upon the use restrictions, program requirements, and/or amount of any penalty, fee, charge, or payback obligation.

CAUTION: If Buyer does not terminate this Offer, Buyer is hereby agreeing that Buyer will continue in such programs, as may apply, and Buyer agrees to reimburse Seller should Buyer fail to continue any such program such that Seller incurs any costs, penalties, damages, or fees that are imposed because the program is not continued after sale. The Parties agree this provision survives closing.

NA MANAGED FOREST LAND: All, or part, of the Property is managed forest land under the Managed Forest Law (MFL). This designation will continue after closing. Buyer is advised as follows: The MFL is a landowner incentive program that encourages sustainable forestry on private woodlands by reducing and deferring property taxes. Orders designating lands as managed forest lands remain in effect for 25 or 50 years. When ownership of land enrolled in the MFL program changes, the new owner must sign and file a report of the change of ownership on a form provided by the Department of Natural Resources and pay a fee. By filing this form, the new owner agrees to the associated MFL management plan and the MFL program rules. The DNR Division of Forestry monitors forest management plan compliance. Changes you make to property that is subject to an order designating it as managed forest land, or to its use, may jeopardize your benefits under the program or may cause the property to be withdrawn from the program and may result in the assessment of penalties. For more information call the local DNR forester or visit <http://www.dnr.state.wi.us>.

FENCES: Wis. Stat. § 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal shares where one or both of the properties is used and occupied for farming or grazing purposes.

CAUTION: Consider an agreement addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.

USE VALUE ASSESSMENTS: The use value assessment system values agricultural land based on the income that would be generated from its rental for agricultural use rather than its fair market value. When a person converts agricultural land to a non-agricultural use (e.g., residential or commercial development), that person may owe a conversion charge. To obtain more information about the use value law or conversion charge, contact the Wisconsin Department of Revenue's Equalization Section or visit <http://www.revenue.wi.gov/>.

FARMLAND PRESERVATION: Rezoning a property zoned farmland preservation to another use or the early termination of a farmland preservation agreement or removal of land from such an agreement can trigger payment of a conversion fee equal to 3 times the class 1 "use value" of the land. Contact the Wisconsin Department of Agriculture, Trade and Consumer Protection Division of Agricultural Resource Management or visit <http://www.datcp.state.wi.us/> for more information.

CONSERVATION RESERVE PROGRAM (CRP): The CRP encourages farmers, through contracts with the U.S. Department of Agriculture, to stop growing crops on highly erodible or environmentally sensitive land and instead to plant a protective cover of grass or trees. CRP contracts run for 10 to 15 years, and owners receive an annual rent plus one-half of the cost of establishing permanent ground cover. Removing lands from the CRP in breach of a contract can be quite costly. For more information call the state Farm Service Agency office or visit <http://www.fsa.usda.gov/>.

SHORELAND ZONING ORDINANCES: All counties must adopt shoreland zoning ordinances that meet or are more restrictive than Wis. Admin. Code Chapter NR 115. County shoreland zoning ordinances apply to all unincorporated land within 1,000 feet of a navigable lake, pond or flowage or within 300 feet of a navigable river or stream and establish minimum standards for building setbacks and height limits, cutting trees and shrubs, lot sizes, water runoff, impervious surface standards (that may be exceeded only if a mitigation plan is adopted) and repairs to nonconforming structures. Buyers must conform to any existing mitigation plans. For more information call the county zoning office or visit <http://www.dnr.state.wi.us/>. Buyer is advised to check with the applicable city, town or village for additional shoreland zoning restrictions, if any.

BUYER'S PRE-CLOSING WALK-THROUGH Within 3 days prior to closing, at a reasonable time pre-approved by Seller or Seller's agent, Buyer shall have the right to walk through the Property to determine that there has been no significant change in the condition of the Property, except for ordinary wear and tear and changes approved by Buyer, and that any defects Seller has agreed to cure have been repaired in the manner agreed to by the Parties.

PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING Seller shall maintain the Property until the earlier of closing or occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior to closing, the Property is damaged in an amount of not more than five percent (5%) of the selling price, Seller shall be obligated to repair the Property and restore it to the same condition that it was on the day of this Offer. No later than closing, Seller shall provide Buyer with lien waivers for all lienable repairs and restoration. If the damage shall exceed such sum, Seller shall promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this Offer despite such damage, Buyer shall be entitled to the insurance proceeds, if any, relating to the damage to the Property, plus a credit towards the purchase price equal to the amount of Seller's deductible on such policy, if any. However, if this sale is financed by a land contract or a mortgage to Seller, any insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

DEFINITIONS

■ **ACTUAL RECEIPT:** "Actual Receipt" means that a Party, not the Party's recipient for delivery, if any, has the document or written notice physically in the Party's possession, regardless of the method of delivery.

■ **CONDITIONS AFFECTING THE PROPERTY OR TRANSACTION:** "Conditions Affecting the Property or Transaction" are defined to include:

- a. Proposed, planned or commenced public improvements or public construction projects which may result in special assessments or otherwise materially affect the Property or the present use of the Property.
- b. Government agency or court order requiring repair, alteration or correction of any existing condition.
- c. Land division or subdivision for which required state or local approvals were not obtained.
- d. A portion of the Property in a floodplain, wetland or shoreland zoning area under local, state or federal regulations.
- e. A portion of the Property being subject to, or in violation of, a farmland preservation agreement or in a certified farmland preservation zoning district (see lines 130-133), or enrolled in, or in violation of, a Forest Crop, Managed Forest (see lines 111-120), Conservation Reserve (see lines 134-138), or comparable program.
- f. Boundary or lot disputes, encroachments or encumbrances, a joint driveway or violation of fence laws (Wis. Stat. ch. 90) (where one or both of the properties is used and occupied for farming or grazing).
- g. Material violations of environmental rules or other rules or agreements regulating the use of the Property.
- h. Conditions constituting a significant health risk or safety hazard for occupants of the Property.
- i. Underground storage tanks presently or previously on the Property for storage of flammable or combustible liquids, including, but not limited to, gasoline and heating oil.
- j. A Defect or contamination caused by unsafe concentrations of, or unsafe conditions relating to, pesticides, herbicides, fertilizer, radon, radium in water supplies, lead or arsenic in soil, or other potentially hazardous or toxic substances on the premises.
- k. Production of methamphetamine (meth) or other hazardous or toxic substances on the Property.
- l. High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property.
- m. Defects in any well, including unsafe well water due to contaminants such as coliform, nitrates and atrazine, and out-of-service wells and cisterns required to be abandoned (Wis. Admin. Code § NR 812.26) but that are not closed/abandoned according to applicable regulations.

(Definitions Continued on page 5)

IF LINE 190 IS NOT MARKED OR IS MARKED N/A, LINES 230-236 APPLY.

☒ **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a written _____ [INSERT LOAN PROGRAM OR SOURCE] first mortgage loan commitment as described below, within _____ days of acceptance of this Offer. The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years, amortized over not less than _____ years. Initial monthly payments of principal and interest shall not exceed \$ _____. Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay discount points and/or loan origination fee in an amount not to exceed _____ % of the loan. If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain the term and amortization stated above.

CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 201 OR 202.

☐ **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____ %.

☐ **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____ %. The initial interest rate shall be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum interest rate during the mortgage term shall not exceed _____ %. Monthly payments of principal and interest may be adjusted to reflect interest changes.

If Buyer is using multiple loan sources or obtaining a construction loan or land contract financing, describe at lines 458-464 or 526-534 or in an addendum attached per line 525.

☒ **BUYER'S LOAN COMMITMENT:** Buyer agrees to pay all customary loan and closing costs, to promptly apply for a mortgage loan, and to provide evidence of application promptly upon request of Seller. If Buyer qualifies for the loan described in this Offer or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline at line 192. **Buyer and Seller agree that delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall satisfy the Buyer's financing contingency if, after review of the loan commitment, Buyer has directed, in writing, delivery of the loan commitment. Buyer's written direction shall accompany the loan commitment. Delivery shall not satisfy this contingency if accompanied by a notice of unacceptability.**

CAUTION: The delivered commitment may contain conditions Buyer must yet satisfy to obligate the lender to provide the loan. BUYER, BUYER'S LENDER AND AGENTS OF BUYER OR SELLER SHALL NOT DELIVER A LOAN COMMITMENT TO SELLER OR SELLER'S AGENT WITHOUT BUYER'S PRIOR WRITTEN APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.

☒ **SELLER TERMINATION RIGHTS:** If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller delivers a written notice of termination to Buyer prior to Seller's Actual Receipt of a copy of Buyer's written loan commitment.

☒ **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then have 10 days to deliver to Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and this Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness for Seller financing.

☒ **IF THIS OFFER IS NOT CONTINGENT ON FINANCING:** Within 7 days of acceptance, a financial institution or third party in control of Buyer's funds shall provide Seller with reasonable written verification that Buyer has, at the time of verification, sufficient funds to close. If such written verification is not provided, Seller has the right to terminate this Offer by delivering written notice to Buyer. Buyer may or may not obtain mortgage financing but does not need the protection of a financing contingency. Seller agrees to allow Buyer's appraiser access to the Property for purposes of an appraisal. Buyer understands and agrees that this Offer is not subject to the appraisal meeting any particular value, unless this Offer is subject to an appraisal contingency, nor does the right of access for an appraisal constitute a financing contingency.

☒ **APPRAISAL CONTINGENCY:** This Offer is contingent upon the Buyer or Buyer's lender having the Property appraised at Buyer's expense by a Wisconsin licensed or certified independent appraiser who issues an appraisal report dated subsequent to the date of this Offer indicating an appraised value for the Property equal to or greater than the agreed upon purchase price. This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the appraisal report which indicates that the appraised value is not equal to or greater than the agreed upon purchase price, accompanied by a written notice of termination.

CAUTION: An appraisal ordered by Buyer's lender may not be received until shortly before closing. Consider whether deadlines provide adequate time for performance.

DEFINITIONS CONTINUED FROM PAGE 3

- 245
- 246 n. Defects in any septic system or other sanitary disposal system on the Property or out-of-service septic systems not
- 247 closed/abandoned according to applicable regulations.
- 248 o. Subsoil conditions which would significantly increase the cost of development including, but not limited to, subsurface
- 249 foundations or waste material; organic or non-organic fill; dumpsites where pesticides, herbicides, fertilizer or other toxic
- 250 or hazardous materials or containers for these materials were disposed of in violation of manufacturer's or government
- 251 guidelines or other laws regulating said disposal; high groundwater; adverse soil conditions (e.g. low load bearing
- 252 capacity, earth or soil movement, slides) or excessive rocks or rock formations.
- 253 p. Brownfields (abandoned, idled or under-used land which may be subject to environmental contamination) or other
- 254 contaminated land, or soils contamination remediated under PECFA, the Department of Natural Resources (DNR)
- 255 Remediation and Redevelopment Program, the Agricultural Chemical Cleanup Program or other similar program.
- 256 q. Lack of legal vehicular access to the Property from public roads.
- 257 r. Homeowners' associations, common areas shared or co-owned with others, zoning violations or nonconforming uses,
- 258 conservation easements, restrictive covenants, rights-of-way, easements, easement maintenance agreements, or use of
- 259 a part of Property by non-owners, other than recorded utility easements.
- 260 s. Special purpose district, such as a drainage district, lake district, sanitary district or sewer district, that has the authority to
- 261 impose assessments against the real property located within the district.
- 262 t. Federal, state or local regulations requiring repairs, alterations or corrections of an existing condition.
- 263 u. Property tax increases, other than normal annual increases; completed or pending property tax reassessment of the
- 264 Property, or proposed or pending special assessments.
- 265 v. Burial sites, archeological artifacts, mineral rights, orchards or endangered species.
- 266 w. Flooding, standing water, drainage problems or other water problems on or affecting the Property.
- 267 x. Material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides.
- 268 y. Significant odor, noise, water intrusion or other irritants emanating from neighboring property.
- 269 z. Substantial crop damage from disease, insects, soil contamination, wildlife or other causes; diseased trees; or substantial
- 270 injuries or disease in livestock on the Property or neighboring properties.
- 271 aa. Existing or abandoned manure storage facilities on the Property.
- 272 bb. Impact fees, or other conditions or occurrences that would significantly increase development costs or reduce the value of
- 273 the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.
- 274 cc. The Property is subject to a mitigation plan required by DNR rules related to county shoreland zoning ordinances that
- 275 obligates the owner to establish or maintain certain measures related to shoreland conditions, enforceable by the county
- 276 (see lines 139-145).
- 277 dd. All or part of the land has been assessed as agricultural land, the owner has been assessed a use-value conversion
- 278 charge or the payment of a use-value conversion charge has been deferred.
- 279 ■ **DEADLINES:** "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by excluding
- 280 the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day.
- 281 Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under
- 282 Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive
- 283 registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours" from the
- 284 occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours
- 285 per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as
- 286 closing, expire at midnight of that day.
- 287 ■ **DEFECT:** "Defect" means a condition that would have a significant adverse effect on the value of the Property; that would
- 288 significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would
- 289 significantly shorten or adversely affect the expected normal life of the premises.
- 290 ■ **FIXTURE:** A "Fixture" is an item of property which is physically attached to or so closely associated with land so as to be
- 291 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage
- 292 to the premises, items specifically adapted to the premises, and items customarily treated as fixtures, including, but not limited
- 293 to, all: perennial crops; garden bulbs; plants; shrubs and trees and fences; storage buildings on permanent foundations and
- 294 docks/piers on permanent foundations.
- 295 **CAUTION: Exclude any Fixtures to be retained by Seller or which are rented on lines 18-19.**
- 296 ■ **PROPERTY:** Unless otherwise stated, "Property" means the real estate described at lines 4-7.
- 297 **PROPERTY DEVELOPMENT WARNING** If Buyer contemplates developing Property for a use other than the current use,
- 298 there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and
- 299 zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or
- 300 uses and therefore should be reviewed. Building permits, zoning variances, Architectural Control Committee approvals,
- 301 estimates for utility hook-up expenses, special assessments, changes for installation of roads or utilities, environmental audits,
- 302 subsoil tests, or other development related fees may need to be obtained or verified in order to determine the feasibility of
- 303 development of, or a particular use for, a property. Optional contingencies which allow Buyer to investigate certain of these
- 304 issues can be found at lines 306-350 and Buyer may add contingencies as needed in addenda (see line 525). Buyer should
- 305 review any plans for development or use changes to determine what issues should be addressed in these contingencies.

306 ☒ **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Property for the purpose of: Commercial Building
307 (office, shop, warehouse)

308
309 [Insert proposed use and type and size of building, if applicable; e.g. three bedroom single family home]. The optional
310 provisions checked on lines 314-345 shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers
311 written notice to Seller specifying those items which cannot be satisfied and written evidence substantiating why each specific
312 item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller
313 agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines 314-350.

314 ☒ **ZONING CLASSIFICATION CONFIRMATION:** This Offer is contingent upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~
315 **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, verification that the Property is zoned INDUSTRIAL
316 _____ and that the Property's zoning allows the Buyer's proposed use described at lines 306-308.

317 ☒ **SUBSOILS:** This offer is contingent upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~ **[STRIKE ONE]** ("Buyer's" if neither
318 is stricken) expense, written evidence from a qualified soils expert that the Property is free of any subsoil condition which
319 would make the proposed use described at lines 306-308 impossible or significantly increase the costs of such
320 development.

321 ☒ **PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** This Offer is contingent
322 upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~ **[STRIKE ONE]** ("Buyer's" if neither is stricken) expense, written evidence from
323 a certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions that must
324 be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS for use of the
325 Property as stated on lines 306-308. The POWTS (septic system) allowed by the written evidence must be one of
326 the following POWTS that is approved by the State for use with the type of property identified at lines 306-308 **[CHECK]**

327 **[ALL THAT APPLY]:** ☐ conventional in-ground; ☐ mound; ☐ at grade; ☐ in-ground pressure distribution; ☐ holding tank;
328 ☐ other: _____

329 ☐ **EASEMENTS AND RESTRICTIONS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~ **[STRIKE]**
330 **[ONE]** ("Buyer's" if neither is stricken) expense, copies of all public and private easements, covenants and restrictions
331 affecting the Property and a written determination by a qualified independent third party that none of these prohibit or
332 significantly delay or increase the costs of the proposed use or development identified at lines 306-308.

333 ☒ **APPROVALS:** This Offer is contingent upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~ **[STRIKE ONE]** ("Buyer's" if
334 neither is stricken) expense, permits, approvals and licenses, as appropriate, or the final discretionary action by the
335 granting authority prior to the issuance of such permits, approvals and licenses, for the following items related to Buyer's
336 proposed use: _____

337
338 ☒ **UTILITIES:** This Offer is contingent upon Buyer obtaining, at ~~(Buyer's)~~ ~~(Seller's)~~ **[STRIKE ONE]** ("Buyer's" if neither
339 is stricken) expense, written verification of the following utility connections at the listed locations (e.g., on the Property, at
340 the lot line, across the street, etc.) **[CHECK AND COMPLETE AS APPLICABLE]:** ☒ electricity _____;
341 ☒ gas _____; ☒ sewer _____; ☒ water _____;
342 ☒ telephone _____; ☒ cable _____; ☐ other _____.

343 ☒ **ACCESS TO PROPERTY:** This Offer is contingent upon Buyer obtaining, at ~~(Buyer's)~~ ~~(Seller's)~~ **[STRIKE ONE]**
344 ("Buyer's" if neither is stricken) expense, written verification that there is legal vehicular access to the Property from public
345 roads.

346 ☒ **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) ~~(Seller's)~~ **[STRIKE ONE]** ("Buyer's" if
347 neither is stricken) expense, a ☐ rezoning; ☐ conditional use permit; ☐ license; ☐ variance; ☐ building permit; ☐
348 occupancy permit; ☐ other _____ **[CHECK ALL THAT APPLY]**, and delivering
349 written notice to Seller if the item cannot be obtained, all within _____ days of acceptance for the Property for its proposed
350 use described at lines 306-308.

351 ☒ **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) ~~(Seller providing)~~ **[STRIKE ONE]** ("Seller
352 providing" if neither is stricken) a Map of the Property dated subsequent to the date of acceptance of this Offer prepared by a
353 registered land surveyor, within 30 days of acceptance, at ~~(Buyer's)~~ ~~(Seller's)~~ **[STRIKE ONE]** ("Seller's" if neither is stricken)
354 expense. The map shall show minimum of 3.9 acres, maximum of 4.0 acres, the legal description of the
355 Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements,
356 if any, and: _____

357 **[STRIKE AND COMPLETE AS APPLICABLE]** Additional map features which may be added include, but are not limited to:
358 staking of all corners of the Property; identifying dedicated and apparent streets; lot dimensions; total acreage or square
359 footage; easements or rights-of-way. **CAUTION: Consider the cost and the need for map features before selecting them.**
360 **Also consider the time required to obtain the map when setting the deadline.** This contingency shall be deemed satisfied
361 unless Buyer, within five days of the earlier of: (1) Buyer's receipt of the map; or (2) the deadline for delivery of said map,
362 delivers to Seller a copy of the map and a written notice which identifies: (1) the significant encroachment; (2) information
363 materially inconsistent with prior representations; or (3) failure to meet requirements stated within this contingency.
364 Upon delivery of Buyer's notice, this Offer shall be null and void.

365 **PROPERTY DIMENSIONS AND SURVEYS** Buyer acknowledges that any land dimensions, total square footage, acreage
 366 figures, or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of
 367 rounding, formulas used or other reasons, unless verified by survey or other means.

368 **CAUTION: Buyer should verify land dimensions, total square footage/acreage figures and allocation of acreage**
 369 **information if material to Buyer's decision to purchase.**

370 **EARNEST MONEY**

371 ■ **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker
 372 (Buyer's agent if Property is not listed or Seller's account if no broker is involved), until applied to the purchase price or
 373 otherwise disbursed as provided in the Offer.

374 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the**
 375 **Parties or an attorney. If someone other than Buyer makes payment of earnest money, consider a special**
 376 **disbursement agreement.**

377 ■ **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after
 378 clearance from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money.
 379 At closing, earnest money shall be disbursed according to the closing statement. If this Offer does not close, the earnest
 380 money shall be disbursed according to a written disbursement agreement signed by all Parties to this Offer. If said
 381 disbursement agreement has not been delivered to broker within 60 days after the date set for closing, broker may disburse
 382 the earnest money: (1) as directed by an attorney who has reviewed the transaction and does not represent Buyer or Seller;
 383 (2) into a court hearing a lawsuit involving the earnest money and all Parties to this Offer; (3) as directed by court order; or (4)
 384 any other disbursement required or allowed by law. Broker may retain legal services to direct disbursement per (1) or to file an
 385 interpleader action per (2) and broker may deduct from the earnest money any costs and reasonable attorneys fees, not to
 386 exceed \$250, prior to disbursement.

387 ■ **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in
 388 relation to this Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to
 389 disbursement per (1) or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or
 390 Seller disagree with broker's proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement.
 391 Small Claims Court has jurisdiction over all earnest money disputes arising out of the sale of residential property with 1-4
 392 dwelling units and certain other earnest money disputes. Buyer and Seller should consider consulting attorneys regarding their
 393 legal rights under this Offer in case of a dispute. Both Parties agree to hold the broker harmless from any liability for good faith
 394 disbursement of earnest money in accordance with this Offer or applicable Department of Regulation and Licensing
 395 regulations concerning earnest money. See Wis. Admin. Code Ch. RL 18.

396 **DISTRIBUTION OF INFORMATION** Buyer and Seller authorize the agents of Buyer and Seller to: (i) distribute copies of the
 397 Offer to Buyer's lender, appraisers, title insurance companies and any other settlement service providers for the transaction as
 398 defined by the Real Estate Settlement Procedures Act (RESPA); (ii) report sales and financing concession data to multiple
 399 listing service sold databases; and (iii) provide active listing, pending sale, closed sale and financing concession information
 400 and data, and related information regarding seller contributions, incentives or assistance, and third party gifts, to appraisers
 401 researching comparable sales, market conditions and listings, upon inquiry.

402 **NOTICE ABOUT SEX OFFENDER REGISTRY** You may obtain information about the sex offender registry and persons
 403 registered with the registry by contacting the Wisconsin Department of Corrections on the Internet at
 404 <http://www.widocoffenders.org> or by telephone at (608) 240-5830.

405 **NA SECONDARY OFFER:** This Offer is secondary to a prior accepted offer. This Offer shall become primary upon delivery
406 of written notice to Buyer that this Offer is primary. Unless otherwise provided, Seller is not obligated to give Buyer notice prior
407 to any deadline, nor is any particular secondary buyer given the right to be made primary ahead of other secondary buyers.
408 Buyer may declare this Offer null and void by delivering written notice of withdrawal to Seller prior to delivery of Seller's notice
409 that this Offer is primary. Buyer may not deliver notice of withdrawal earlier than _____ days after acceptance of this Offer. All
410 other Offer deadlines which are run from acceptance shall run from the time this Offer becomes primary.

411 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3)
412 occupancy; (4) date of closing; (5) contingency Deadlines **STRIKE AS APPLICABLE** and all other dates and Deadlines in this
413 Offer except: **NA**

414 If "Time is of the Essence" applies to a date or Deadline, failure to perform by the exact date or Deadline is a breach of
415 contract. If "Time is of the Essence" does not apply to a date or Deadline, then performance within a reasonable time of the
416 date or Deadline is allowed before a breach occurs.

417 **TITLE EVIDENCE**

418 **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed
419 (or trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as
420 provided herein), free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements
421 entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
422 restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's disclosure report and
423 in this Offer, general taxes levied in the year of closing and **NA**

424 _____
425 _____
426 _____
427 which constitutes merchantable title for purposes of this transaction. Seller shall complete and execute the documents
428 necessary to record the conveyance at Seller's cost and pay the Wisconsin Real Estate Transfer Fee.

429 **TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the
430 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. Seller shall pay all
431 costs of providing title evidence to Buyer. Buyer shall pay all costs of providing title evidence required by Buyer's lender.

432 **GAP ENDORSEMENT:** Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's) (Buyer's) **STRIKE**
433 **ONE** ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded after the
434 effective date of the title insurance commitment and before the deed is recorded, subject to the title insurance policy
435 exclusions and exceptions, provided the title company will issue the endorsement. If a gap endorsement or equivalent gap
436 coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines 442-449).

437 **PROVISION OF MERCHANTABLE TITLE:** For purposes of closing, title evidence shall be acceptable if the required title
438 insurance commitment is delivered to Buyer's attorney or Buyer not more than 20 days after acceptance ("15" if left blank),
439 showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per
440 lines 418-427, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements
441 and exceptions, as appropriate.

442 **TITLE NOT ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of
443 objections to title within 10 days ("15" if left blank) after delivery of the title commitment to Buyer or Buyer's attorney. In
444 such event, Seller shall have a reasonable time, but not exceeding 5 days ("5" if left blank) from Buyer's delivery of the
445 notice stating title objections, to deliver notice to Buyer stating Seller's election to remove the objections by the time set for
446 closing. In the event that Seller is unable to remove said objections, Buyer may deliver to Seller written notice waiving the
447 objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, Buyer shall deliver
448 written notice of termination and this Offer shall be null and void. Providing title evidence acceptable for closing does not
449 extinguish Seller's obligations to give merchantable title to Buyer.

450 **SPECIAL ASSESSMENTS:** Special assessments, if any, levied or for work actually commenced prior to the date of this
451 Offer shall be paid by Seller no later than closing. All other special assessments shall be paid by Buyer.

452 **CAUTION: Consider a special agreement if area assessments, property owners association assessments, special**
453 **charges for current services under Wis. Stat. § 66.0627 or other expenses are contemplated. "Other expenses" are**
454 **one-time charges or ongoing use fees for public improvements (other than those resulting in special assessments)**
455 **relating to curb, gutter, street, sidewalk, municipal water, sanitary and storm water and storm sewer (including all**
456 **sewer mains and hook-up/connection and interceptor charges), parks, street lighting and street trees, and impact**
457 **fees for other public facilities, as defined in Wis. Stat. § 66.0617(1)(f).**

458 **ADDITIONAL PROVISIONS/CONTINGENCIES** **NA**

459 _____
460 _____
461 _____
462 _____
463 _____
464 _____

465 **DEFAULT** Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and
 466 conditions of this Offer. A material failure to perform any obligation under this Offer is a default which may subject the
 467 defaulting party to liability for damages or other legal remedies.

468 If Buyer defaults, Seller may:

- 469 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
 470 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for
 471 actual damages.

472 If Seller defaults, Buyer may:

- 473 (1) sue for specific performance; or
 474 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

475 In addition, the Parties may seek any other remedies available in law or equity.

476 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
 477 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution
 478 instead of the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of
 479 law those disputes covered by the arbitration agreement.

480 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD**
 481 **READ THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS**
 482 **OF THE OFFER BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL**
 483 **RIGHTS UNDER THIS OFFER OR HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE**
 484 **CONSULTED IF LEGAL ADVICE IS NEEDED.**

485 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller
 486 regarding the transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and
 487 inures to the benefit of the Parties to this Offer and their successors in interest.

488 **INSPECTIONS AND TESTING** Buyer may only conduct inspections or tests if specific contingencies are included as a part of
 489 this Offer. An "inspection" is defined as an observation of the Property which does not include an appraisal or testing of the
 490 Property, other than testing for leaking carbon monoxide, or testing for leaking LP gas or natural gas used as a fuel source,
 491 which are hereby authorized. A "test" is defined as the taking of samples of materials such as soils, water, air or building
 492 materials from the Property and the laboratory or other analysis of these materials. Seller agrees to allow Buyer's inspectors,
 493 testers and appraisers reasonable access to the Property upon advance notice, if necessary to satisfy the contingencies in
 494 this Offer. Buyer and licensees may be present at all inspections and testing. Except as otherwise provided, Seller's
 495 authorization for inspections does not authorize Buyer to conduct testing of the Property.

496 **NOTE: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose of the**
 497 **test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other**
 498 **material terms of the contingency.**

499 Buyer agrees to promptly restore the Property to its original condition after Buyer's inspections and testing are completed
 500 unless otherwise agreed to with Seller. Buyer agrees to promptly provide copies of all inspection and testing reports to Seller.
 501 Seller acknowledges that certain inspections or tests may detect environmental pollution which may be required to be reported
 502 to the Wisconsin Department of Natural Resources.

503 **NA INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 488-502). This Offer
504 is contingent upon a qualified independent inspector(s) conducting an inspection(s), of the Property which discloses no
505 Defects. This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing
506 an inspection of _____
507 (list any Property feature(s) to be separately inspected, e.g., dumpsite, etc.) which discloses no Defects. Buyer shall order the
508 inspection(s) and be responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a
509 written report resulting from an authorized inspection performed provided they occur prior to the deadline specified at line 513.
510 Inspection(s) shall be performed by a qualified independent inspector or independent qualified third party.
511 **CAUTION: Buyer should provide sufficient time for the primary inspection and/or any specialized inspection(s), as**
512 **well as any follow-up inspection(s).**

513 This contingency shall be deemed satisfied unless Buyer, within ____ days of acceptance, delivers to Seller a copy of the written
514 inspection report(s) and a written notice listing the Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).
515 **CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.**

516 For the purposes of this contingency, Defects (see lines 287-289) do not include conditions the nature and extent of which the
517 Buyer had actual knowledge or written notice before signing this Offer.

518 **■ RIGHT TO CURE:** Seller (shall)(shall not) **STRIKE ONE** ("shall" if neither is stricken) have a right to cure the Defects. If
519 Seller has the right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within 10 days of
520 Buyer's delivery of the Notice of Defects stating Seller's election to cure Defects, (2) curing the Defects in a good and
521 workmanlike manner and (3) delivering to Buyer a written report detailing the work done within 3 days prior to closing. This
522 Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and: (1)
523 Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written notice that Seller will not cure
524 or (b) Seller does not timely deliver the written notice of election to cure.

525 ☐ **ADDENDA:** The attached _____ is/are made part of this Offer.

526 **ADDITIONAL PROVISIONS/CONTINGENCIES** SELLER shall provide Wetland Assessment/Delineation
527 within 30 days of Acceptance. BUYER shall have 10 days to approve and shall have the right
528 to cancel the Offer if not acceptable for any reason.
529 _____
530 _____
531 _____
532 _____
533 _____
534 _____

535 This Offer was drafted by [Licensee and Firm] Robert M. Rossi Newmark Grubb Pfefferle

536 _____ on April 27, 2016

537 (x) _____ Date ▲
538 Buyer's Signature ▲ Print Name Here ▶ C3 Corporation or Assigns

539 (x) _____ Date ▲
540 Buyer's Signature ▲ Print Name Here ▶

541 **EARNEST MONEY RECEIPT** Broker acknowledges receipt of earnest money as per line 10 of the above Offer.

542 _____ Broker (By)

543 **SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER**
544 **SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON**
545 **THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.**

546 (x) Joseph F Van Nettey 4-27-16
547 Seller's Signature ▲ Print Name Here ▶ Date ▲

548 (x) Brad Huitjens, Nicolet National Bank, CCO, EVA 4-29-16
549 Seller's Signature ▲ Print Name Here ▶ Date ▲

550 This Offer was presented to Seller by [Licensee and Firm] _____


551 _____ on _____ at _____ a.m./p.m.

552 This Offer is rejected _____ This Offer is countered [See attached counter] _____
553 Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

Available Sites Northeast Business Park Appleton, Wisconsin

Legend

 Available Sites
\$40,000/ac.

 Subject Parcel





"...meeting community needs...enhancing quality of life."

MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 16, 2016

RE: Letter of Intent for Southpoint Commerce Park

The City has received a Letter of Intent (attached) from Commercial Horizons for development of a World Headquarters, Innovation Center and Pilot Plant for an undisclosed company to purchase Lots 12 and 13 of Plat 1 in the Southpoint Commerce Park (map attached).

The proposed purchase price is \$45,000 per acre which is the City's asking price for Plank Road frontage land in the Southpoint Commerce Park. The two parcels comprise 6.83 acres. Other requested terms, including the requested framework of the Development Agreement are also included in the Letter of Intent. As stated in the LOI, "this Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of property."

Lot 13 is not currently owned by the City. To facilitate this transaction, the City would have to repurchase Lot 13 under Section 13 of the Deed Restrictions and Covenants, Repurchase Rights. The estimated repurchase price, assuming an August 1, 2016 closing date, using the guidelines in the Deed Restrictions and Covenants is approximately \$152,749 (calculations attached).

Staff Recommendation:

CEDD be authorized to accept the basic terms of the Letter of Intent from Commercial Horizons dated June 7, 2016 and continue to negotiate terms toward offer to purchase and development agreement for subject parcel.

CEDD be authorized to proceed with the Repurchase of Lot 13, Plat 1, in the Southpoint Commerce Park under the terms outlined in Section 13 – Repurchase Rights.

Matthew Rehbein

From: Monica Stage
Sent: Wednesday, June 08, 2016 8:56 AM
To: Matthew Rehbein
Subject: FW: Southpoint Commerce Park
Attachments: LOI - City of Appleton.docx

From: Paul Klister [mailto:pkllister@commercialhorizons.com]
Sent: Tuesday, June 07, 2016 8:21 PM
To: Karen Harkness <Karen.Harkness@Appleton.org>; Monica Stage <Monica.Stage@appleton.org>; matt.rehbein@appleton.org
Cc: Mike Lokensgard <mlokensg@gklaw.com>
Subject: Southpoint Commerce Park

Hello all – please see revised LOI that changes our price per acre. Thank you, Paul



Paul Klister | Principal

100 W. Lawrence St #214 Appleton, WI 54911
P.O. Box 115 Appleton, WI 54912-0115
Office: (920) 830.9646 | Fax: (920) 830.9647
Mobile: (920) 428-7007
pkllister@commercialhorizons.com

June 7, 2016

City of Appleton
Community & Economic Development
Attn: Matt Rehbein
100 N. Appleton Street
Appleton, WI 54911

Re: LETTER OF INTENT for the Purchase and Sale of Real Property known as Lots 12 & 13 of the Southpoint Commerce Park, Appleton, WI (the "Property"), and Development Agreement.

Dear Mr. Rehbein:

We are pleased to present to you this Letter of Intent which sets forth the terms on which Commercial Horizons, Inc. (the "{Purchaser}") is willing to purchase lots 12 & 13 of the Southpoint commerce Park, Appleton, Wisconsin, from the City of Appleton ("Seller"). Said purchase is for the immediate development of the world Headquarters, Innovation Center and Pilot Plant for Company to be named at a later date ("Company").

Terms and conditions to be included in the Purchase and Sale Agreement include the following:

1. **Purchase Price:** \$307,350.00 (\$45,000.00 per acre for 6.83 acres).
Purchase price would be paid as follows:
 - a. Earnest Money deposit of \$10,000.00 will be paid within 5 days of executed Purchase and Sale Agreement and held in Escrow at a Title Company agreed to by the parties.
 - b. Balance of purchase price to be paid by cash at the time of closing.
2. **Site Development:** Seller shall be responsible for the costs associated with the development of the Property including installation of adequate offsite storm water piping and/or storm water management basin and extension of utilities up to the property line. This offer is contingent upon the community development retention pond being adequate based on the final site design.
3. **Closing Date:** Closing shall take place on or before ten (10) days after:
 - i. Obtaining all necessary municipal approvals;
 - ii. Municipal approval of a Development Agreement between the parties.

4. **Inspection/due diligence period:** Purchaser shall have a 90 day inspection period from the time of the execution of the Purchase and Sale Agreement to complete all environmental, geotechnical, zoning, flood plain, title, and engineering reviews. Seller shall provide any and all information in its possession in a timely manner, including, but not limited to: all maps,, geotechnical and environmental reports; title. Purchaser shall be granted two (2) extension periods of 45 days each if unable to complete all due diligence.
5. **Title:** At closing marketable and insurable title to the Property shall be conveyed to Purchaser of Purchaser's designee by general warranty deed in fee simple absolute free, clear and unencumbered, subject only to easements of record, the leases to be approved by Purchaser during the Inspection period and Installments of real estate taxes a lien but not yet due and payable.
6. **Closing Costs:** Seller shall pay all state and local conveyance fees. Purchaser shall be responsible for recording costs of the deed and other documents that Purchaser requires be recorded.
7. **Real Estate Taxes:** Seller shall pay its prorated share of real estate taxes based on the prior year known property tax. Buyer shall receive a credit against the Purchase Price at closing.
8. **Commission:** Seller shall be responsible for a commission associated with this transaction equal to 8% of \$307,350.00 payable to Commercial Horizons, Inc. attn.: Mike Maedke.

DEVELOPMENT AGREEMENT

Company is an International, Innovator that has engaged Commercial Horizons, Inc. ("Developer") to assist in procuring a site and developing and leasing a new facility that will house its world headquarters. The development will include class "A" office space, laboratories and a pilot plant. Due to the unique nature of this facility, the cost and expense to develop and operate far exceed what the cost to develop a more customary office building. Thus, a substantial financial gap is created and but for, financial assistance to be provided by the City of Appleton, Company would not enter into a lease for the Project and Developer would not be able to proceed with the project.

1. **Developer Obligations:** Developer shall construct the Project in accordance with all applicable City zoning and building codes, ordinances and regulations. Developer warrants and represents to the City that the Project will contain at least 37,000 square feet of space and that the total

development costs expended on the Project (inclusive of personal property and equipment) will be approximately \$17,000,000.00.

2. **City Obligations:** Subject to mutually acceptable terms, covenants and conditions of a Development Agreement and applicable provisions of law, and as an inducement by the City of Appleton to Company and Developer to carry out the Project, the City of Appleton will pay to Company a development investment (the "Investment"). The principal amount of the Investment shall be the lesser of: (i) Three Million Seven Hundred Forty Thousand Dollars (\$3,740,000.00); or (ii) twenty two percent (22%) of the total equalized value of the real and personal property comprising the Project as of January 1 of the year in which the Project is first fully assessed - as such equalized value is determined by the Wisconsin Department of Revenue, minus the base value of the Property, as determined by the Wisconsin Department of Revenue. The Investment will be paid directly to Company in a manner to be negotiated and will include interest on the Investment at the rate of five percent (5%) per annum. Additionally, the City of Appleton will reinvest the amount of the purchase price of the land into the project.

This Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of Property. It is, however, an expression of certain terms and conditions to be included in the Purchase and Sale Agreement and Development Agreement. Upon receipt of a signed copy of this Letter of Intent, Purchaser shall instruct its legal counsel to prepare the Purchase and Sale Agreement. Seller and Purchaser shall work diligently and in good faith to enter into the Purchase and Sale Agreement within forty-five (45) days after the acceptance of this letter of intent by Seller.

If the terms of this Letter of Intent are acceptable, please sign and return to Paul Klister (Commercial Horizons, Inc.). Thank you.

AGREED TO BY PURCHASER:

Name: _____
Title: _____
Date: _____

AGREED TO BY SELLER:

Name: _____
Title: _____
Date: _____

CALCULATION OF REPURCHASE PRICE PER DEED RESTRICTIONS FOR LOT 13, PLAT 1 SPCP

| | |
|----------------|---------------|
| Purchase Price | \$167,400.00 |
| Sale Date | Oct. 20, 2008 |
| Lot Size | 3.72 Ac |

| | |
|--|-----------|
| Sum of original purchase price | \$167,400 |
| Special Assessments (Add) | - |
| Unpaid Property Taxes (Deduct) | 470 |
| Pro-Rata Current yr. Property Taxes (Deduct) | 2,196 * |
| Title Insurance Premium (Deduct) | 93 |
| RE Commission pd. At closing (Deduct) | 13,392 |
| Liens and encumbrances (Deduct) | ** |
| Option Fee (Deduct) | - |

| | |
|---|-----------|
| ESTIMATED REPURCHASE PRICE | \$151,249 |
| TO SELLER PER DEED RESTRICTION LANGUAGE | |

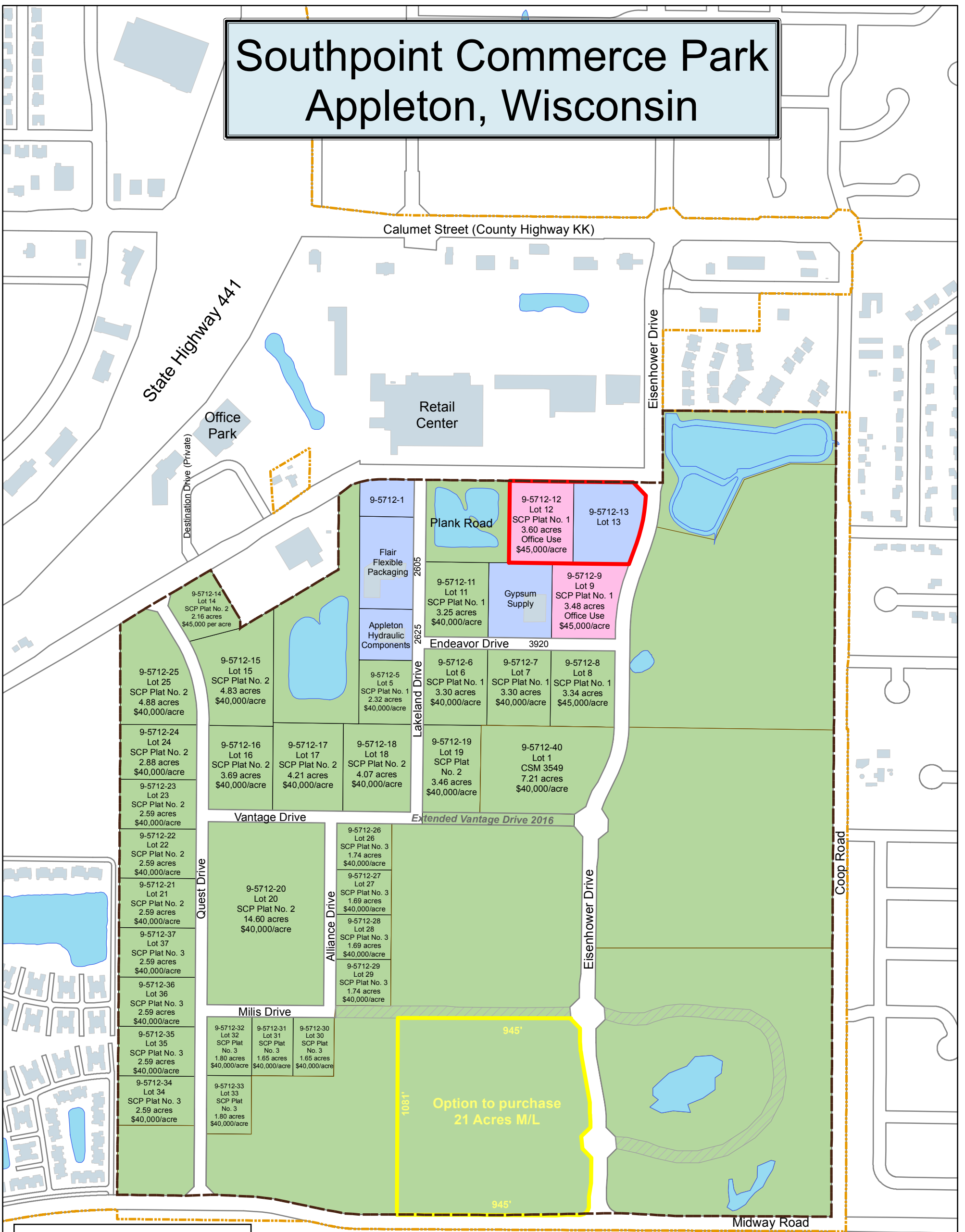
| | |
|-----------------------------|------|
| Estimated Transaction Costs | 1500 |
|-----------------------------|------|

| | |
|-----------------------------|------------------|
| TOTAL ESTIMATED COST | \$152,749 |
|-----------------------------|------------------|

*Assumes close date Aug 1, 2016

**Don't know liens/encumbrances

Southpoint Commerce Park Appleton, Wisconsin



Legend

Park Boundary

Subject Parcels

Option to purchase 21 acres M/L

Proposed Roads

City Limits

Proposed Parcel Lines

AppletonGIS.DBO.ActionPoly

For Sale

Office Use

Sold

Exhibit A
Available Sites

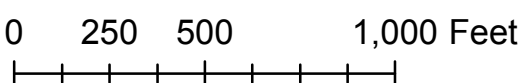


Exhibit B Deed Restrictions



DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN
SOUTHPOINT COMMERCE PARK PLATS NO. 1, 2 & 3

This conveyance is made subject to the following conditions, covenants, and understandings, which shall be binding upon the vendee and his/her heirs, successors, and assigns:

1. ***Setbacks:***

- A. *Front Yard:* No building shall be constructed on the site nearer than forty (40) feet of the right-of-way of any public street. In the case of corner lots, both forty (40) foot setbacks will apply.
- B. *Side and Rear Yards:* Minimum side and rear yards shall be twenty-five (25) feet.

2. ***Land Use:***

Restrictions on Use. The Restricted Parcel shall be developed and used solely for the following purpose and for no other purpose:

- 1. Manufacturing;
- 2. Research, development and testing laboratories;
- 3. Wholesaling, warehousing and distribution;
- 4. Office operations only if they are an integral part of and a necessary adjunct to a permitted use;
- 5. Retail sales of products manufactured on site and clearly an accessory use to the primary use of the site and provided on premises sales are limited in floor area to no more than (10) percent of the total gross floor area occupied by the permitted or special use;
- 6. Other land uses may be considered for approval by the Community Development Committee if a determination is made that the project fits the development objectives of the City.

3. *Nuisance Factors and Hazards*

- A. In order to protect the interests of all Tenants, no operation shall be conducted which emits offensive or objectionable noise, vibration, smoke, odors, dust, or gases. Precautions should be taken in all research and other approved operations for radiation, radioactivity, fire, and explosion hazards.
- B. No fuel or chemical in-ground or outdoor storage shall be allowed in the Park.

4. *Building Standards*

- A. Any building erected shall be at least 7,500 square feet in area and have a gross floor area equal to at least 10 percent of the land area.
- B. The maximum ratio of building area (footprint) to total parcel size shall in no event exceed forty (40) percent, exclusive of parking and loading areas. The building footprint, all parking, driveways, and loading areas, when combined, may not exceed seventy (70) percent of the total Parcel size.
- C. Buildings shall be designed by an Architect or Engineer. Complete architectural design must be given to all façades of all buildings with all sides and rear elevations being given architectural treatment compatible with the front elevation of the building.
- D. This Industrial Park encourages a variety of architectural styles. However, it is intended that a basic harmony of architecture prevail among the buildings so that no one structure detract from the attractiveness of the overall development.
- E. The front elevation of the building, any elevation facing a street, and externally visible opaque surfaces shall be a minimum of 75% of materials 1-5 (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms). The side and rear building elevations that do not face any street shall be a minimum of 25% of materials (1-5). Exception to this requirement would be limited to (1) expandable building side with prior approval from the Site Plan Review Committee.
 - 1. Brick;
 - 2. Architectural precast concrete panels (surface finish to be painted, stained, or exposed aggregate). When using concrete panels as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of various textures, colors and accents will be encouraged.
 - 3. Decorative face concrete block. When using decorative face concrete block as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of different types and textures (split face, fluted, scored or striated) to provide variety and relief will be encouraged.

4. Cut stone;
 5. Exterior insulation and finish systems (EFIS);
 6. Metal panels may be used only in combination with one of the approved materials. Any metal siding proposed for use shall be entirely coated with a color fast, abrasion and corrosion resistant, long life (minimum of 20 years) finish that is resistant to chemicals, withstands temperature extremes, and has a low permeability. Any material utilized to attach the metal siding to the building shall be concealed or the utilization of shadow panels or semi-concealed fastener panels with fasteners painted to match the panels shall be required.
 7. Other building materials being developed and to be developed by the construction industry. The use of such materials will be reviewed by the Site Plan Review Committee on a case-by-case basis.
- F. Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness, and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.
- G. Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.
- H. The Community Development Committee will approve ancillary structures. Approval may be granted only if such structures are necessary to the principal use of the building site, are in architectural and aesthetic conformance with other buildings or structures on the site, are properly screened, meet all requirements of these covenants and are otherwise satisfactory to the Community Development Committee at its sole discretion.

5. ***Landscaping:***

- A. *Landscape Plan:* The landscaping upon any building site or lot shall be carried out in accordance with a detailed landscaping plan, which has been reviewed and approved in writing by the City's Site Plan Review Committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant material, planting size, root condition, and quantity of all plant material. The plan shall show all ground cover and mulch areas, landscape and construction materials, and construction details.
- B. *Landscaping Methods:* Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkler systems, fountains, storm run-off retention ponds, reflective ponds, and landscape lighting.

- C. *Plant Material*: Selected plant material should provide for a variety of shade trees, evergreen trees, and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:
1. Disease and insect resistance;
 2. Hardiness to the area;
 3. The ability to provide seasonal interest;
 4. Future maintenance considerations;
 5. Ability of plant material to accomplish its intended purpose in each placement.
- D. *Time for Completion*: All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.
- E. *Maintenance*: The owner shall be responsible for maintaining all landscaping as approved on the original plan for his site. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Community Development Department. Landscaped areas, materials, fixtures, and improvements shall be maintained by the owner of the building site, or by such owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, replacement of dead plantings, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the building site landscaping in a healthy state of growth and visually attractive in appearance.

If the owner or the owner's assigns fail to maintain the landscaping and site per the approved landscaping plan in this section, the City of Appleton or its Agent may seek an inspection warrant to enter the site and conduct such maintenance and to seek full reimbursement.

6. *Utility Controls*

All utilities lines shall be located underground where feasible except for high voltage lines. In the event high voltage lines are required, rear locations nearest and parallel with rear lot lines shall be encouraged.

7. *Parking, Loading*

Off-street parking and loading areas shall be provided on each building site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all site occupants and visitors and comply with the City's Zoning Ordinance regarding parking standards.

1. All truck maneuvering must be confined within the boundaries of the property.
2. All parking, driveways, and loading areas shall be paved.
3. Parking shall be permitted within the minimum front yard setback area; however, it shall be located no closer than fifteen (15) feet to the public right-of-way line. Parking shall be setback a minimum of 6' from the side property line.

Truck loading and receiving areas shall occur in the rear of any buildings or structures on any Lot. Truck loading and receiving areas shall be permitted on the side of such building if sufficient visual screening is installed to screen the dock area from the street.

Truck loading and receiving is normally not permitted in the front of such building unless dictated by the site conditions and only if fully screened from the street. In that event, the Community Development Committee shall review and approve the location of the loading dock. The Community Development Committee may assign this review of plans to the Community Development Department.

8. ***Outdoor Storage:***

No outside storage of any kind shall be permitted unless such stored materials are visually screened from all streets and adjoining properties with a suitable fence, vegetation, berm, or combination thereof approved by the Site Plan Review Committee. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Said storage shall be limited to behind the front line of the building on the property, and within the building setback lines. All refuse containers must be enclosed by a fence of solid material such as will provide a suitable visual screen. No waste material or refuse may be dumped or permitted to remain on any part of the property outside of the buildings. All storage areas shall be paved.

9. ***Roof Mounted Equipment:***

Roof mounted equipment shall be so located and/or screened, and painted to minimize visibility from the street and adjacent owners.

10. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. The signs shall not advertise business services. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Site Plan Review Committee for review.

1. Ground signs must be set back a minimum of 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee.
2. Signs may not be of unusual size or shape when compared to the improvements situated on the site on which the sign is located.

3. Signs may not be installed above the roofline of a building.
4. Pole signs are prohibited.
5. Signs may not contain or utilize any flashing, blinking, intermittent or moving light as source of illumination.
6. No signs shall be located in or painted on any window.
7. Building signs must comply with the City Sign Code.

11. ***Maintenance Responsibilities:***

- A. Each owner shall keep its property, all contiguous street right-of-way to the edge of the pavement, and all drainage and easement areas in a well -maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:
 1. The removal of all litter, trash, refuse, and wastes;
 2. Compliance with the City's noxious weed control ordinance, including the mowing of all grass areas to a height not over 4";
 3. The maintenance of exterior lighting, signs, and mechanical facilities;
 4. The keeping of all exterior building surfaces in a cleaned, well-maintained condition;
 5. The maintenance of all drainage ways including the removal of all debris, weeds, and silt.
- B. The owner of any undeveloped lands shall maintain said lands free of rubbish, noxious weeds, and mosquito breeding pond conditions.

12. ***Site Plan Review:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the owner shall first submit its building plans, specifications, site and landscape plans, elevations of all sides of the building, samples of materials proposed for all external surfaces including colors and textures, and an artist's rendering of the project or a scale model to the Site Plan Review Committee in accordance with Section 23-171 of the City Zoning Code. Renderings should show adjacent buildings, landscaping, screening, signs etc.

13. ***Repurchase Rights:***

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, the City has the option to repurchase said property. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, pro-ration of the current years property taxes to date of closing, title insurance policy premium, real estate commission paid at time of original closing, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof, which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the paragraph above (Failure to Build). Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner.

14. ***Subdivision of Lots:***

After a lot has been purchased, such lot shall not be further subdivided without the written consent of the Community Development Committee. No owner may sell, lease or rent less than all of the lot without the prior written consent of the Community Development Committee. The Community Development Committee may delegate this approval authority to the Community Development Department. The foregoing prohibition shall not apply to occupancy leases of space in a building made in the ordinary course of business.

15. ***Waiver of Notice:***

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

16. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these covenants and restrictions, or any one or more of them, where the circumstances, in its sole

and exclusive judgment, justifies the granting of same.

17. ***Enforcement:***

The Community Development Committee has the responsibility to ensure compliance with the covenants and restrictions through any and all lawful means. In the event that the owner fails to perform in accordance with these covenants and restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special charge. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

18. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said covenants and restrictions at the time of its violation shall in no way affect any of the other covenants or restrictions nor be deemed a waiver of the right to enforce the same thereafter.

19. ***Term:***

Each lot shall be conveyed subject to the covenants and restrictions set forth herein, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty (30) years from the date of this Declaration of Covenants and Restrictions is recorded, after which time said covenants and restrictions as are then in force and effect shall be automatically renewed for successive periods of ten (10) years each, unless an instrument terminating such covenants and restrictions is recorded with the Outagamie County Register of Deeds by the Common Council as evidenced by a resolution duly adopted by a majority of all members of the Common Council.

Southpoint Commerce Park Appleton, Wisconsin

Calumet Street (County Highway KK)

Slate Highway 441

Office
Park

Retail
Center

Legend

- For Sale
- Office
- Offer
- Sold
- Industrial Park Boundary
- Ponds
- City Limits

Plank Road (County Highway AP)

Eisenhower Drive

Future Pond

9-5700-6
Time Warner Cable
Technical Operations Center

9-5712-1
Mike Roberts
9-5712-2
Lot 2
SCP Plat No. 1
1.44 acres
\$40,000/acre

9-5712-11
Lot 11
SCP Plat No. 1
3.25 acres
\$40,000/acre

9-5712-12
Lot 12
SCP Plat No. 1
3.60 acres
Office Use
\$45,000/acre

9-5712-13
Mike Roberts
RPG 4

9-5712-3
Flair
Flexible
Packaging

9-5712-10
Arrow Moving
Systems, Inc.

9-5712-9
Lot 9
SCP Plat No. 1
3.28 acres
Office Use
\$45,000/acre

9-5712-4
Appleton
Hydraulic
Components

9-5712-6
Lot 6
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-7
Lot 7
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-8
Lot 8
SCP Plat No. 1
3.34 acres
\$45,000/acre

9-5712-5
Lot 5
SCP Plat No. 1
2.32 acres
\$40,000/acre

9-5712-19
Lot 19
SCP Plat
No. 2
3.46 acres
\$40,000/acre

9-5712-26
Lot 26
SCP Plat
No. 3
1.74 acres
\$40,000/acre

9-5712-27
Lot 27
SCP Plat
No. 3
1.69 acres
\$40,000/acre

9-5712-25
Lot 25
SCP Plat No. 2
4.88 acres
\$40,000/acre

9-5712-15
Lot 15
SCP Plat No. 2
4.83 acres
\$40,000/acre

9-5712-16
Lot 16
SCP Plat No. 2
3.69 acres
\$40,000/acre

9-5712-17
Lot 17
SCP Plat No. 2
4.21 acres
\$40,000/acre

9-5712-18
Lot 18
SCP Plat No. 2
4.07 acres
\$40,000/acre

9-5712-24
Lot 24
SCP Plat No. 2
2.88 acres
\$40,000/acre

9-5712-23
Lot 23
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-22
Lot 22
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-21
Lot 21
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-31
Lot 31
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-30
Lot 30
SCP Plat
No. 3
1.55 acres
\$40,000/acre

9-5712-29
Lot 29
SCP Plat
No. 3
1.74 acres
\$40,000/acre

9-5712-28
Lot 28
SCP Plat
No. 3
1.69 acres
\$40,000/acre

9-5712-20
Lot 20
SCP Plat No. 2
14.60 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-20
Lot 20
SCP Plat No. 2
14.60 acres
\$40,000/acre

9-5712-21
Lot 21
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-22
Lot 22
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-23
Lot 23
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-24
Lot 24
SCP Plat No. 2
2.88 acres
\$40,000/acre

9-5712-25
Lot 25
SCP Plat No. 2
4.88 acres
\$40,000/acre

9-5712-26
Lot 26
SCP Plat
No. 3
1.74 acres
\$40,000/acre

9-5712-27
Lot 27
SCP Plat
No. 3
1.69 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-31
Lot 31
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-30
Lot 30
SCP Plat
No. 3
1.55 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-31
Lot 31
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-30
Lot 30
SCP Plat
No. 3
1.55 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-31
Lot 31
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-30
Lot 30
SCP Plat
No. 3
1.55 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
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9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

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1.55 acres
\$40,000/acre





MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 16, 2016

RE: Letter of Intent for Southpoint Commerce Park

The City has received a Letter of Intent (attached) from Commercial Horizons for development of a World Headquarters, Innovation Center and Pilot Plant for an undisclosed company to purchase Lots 12 and 13 of Plat 1 in the Southpoint Commerce Park (map attached).

The proposed purchase price is \$45,000 per acre which is the City's asking price for Plank Road frontage land in the Southpoint Commerce Park. The two parcels comprise 6.83 acres. Other requested terms, including the requested framework of the Development Agreement are also included in the Letter of Intent. As stated in the LOI, "this Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of property."

Lot 13 is not currently owned by the City. To facilitate this transaction, the City would have to repurchase Lot 13 under Section 13 of the Deed Restrictions and Covenants, Repurchase Rights. The estimated repurchase price, assuming an August 1, 2016 closing date, using the guidelines in the Deed Restrictions and Covenants is approximately \$152,749 (calculations attached).

Staff Recommendation:

CEDD be authorized to accept the basic terms of the Letter of Intent from Commercial Horizons dated June 7, 2016 and continue to negotiate terms toward offer to purchase and development agreement for subject parcel.

CEDD be authorized to proceed with the Repurchase of Lot 13, Plat 1, in the Southpoint Commerce Park under the terms outlined in Section 13 – Repurchase Rights.

Matthew Rehbein

From: Monica Stage
Sent: Wednesday, June 08, 2016 8:56 AM
To: Matthew Rehbein
Subject: FW: Southpoint Commerce Park
Attachments: LOI - City of Appleton.docx

From: Paul Klister [mailto:pkllister@commercialhorizons.com]
Sent: Tuesday, June 07, 2016 8:21 PM
To: Karen Harkness <Karen.Harkness@Appleton.org>; Monica Stage <Monica.Stage@appleton.org>; matt.rehbein@appleton.org
Cc: Mike Lokensgard <mlokensg@gklaw.com>
Subject: Southpoint Commerce Park

Hello all – please see revised LOI that changes our price per acre. Thank you, Paul



Paul Klister | Principal

100 W. Lawrence St #214 Appleton, WI 54911
P.O. Box 115 Appleton, WI 54912-0115
Office: (920) 830.9646 | Fax: (920) 830.9647
Mobile: (920) 428-7007
pkllister@commercialhorizons.com

June 7, 2016

City of Appleton
Community & Economic Development
Attn: Matt Rehbein
100 N. Appleton Street
Appleton, WI 54911

Re: LETTER OF INTENT for the Purchase and Sale of Real Property known as Lots 12 & 13 of the Southpoint Commerce Park, Appleton, WI (the "Property"), and Development Agreement.

Dear Mr. Rehbein:

We are pleased to present to you this Letter of Intent which sets forth the terms on which Commercial Horizons, Inc. (the "{Purchaser}") is willing to purchase lots 12 & 13 of the Southpoint commerce Park, Appleton, Wisconsin, from the City of Appleton ("Seller"). Said purchase is for the immediate development of the world Headquarters, Innovation Center and Pilot Plant for Company to be named at a later date ("Company").

Terms and conditions to be included in the Purchase and Sale Agreement include the following:

1. **Purchase Price:** \$307,350.00 (\$45,000.00 per acre for 6.83 acres).
Purchase price would be paid as follows:
 - a. Earnest Money deposit of \$10,000.00 will be paid within 5 days of executed Purchase and Sale Agreement and held in Escrow at a Title Company agreed to by the parties.
 - b. Balance of purchase price to be paid by cash at the time of closing.
2. **Site Development:** Seller shall be responsible for the costs associated with the development of the Property including installation of adequate offsite storm water piping and/or storm water management basin and extension of utilities up to the property line. This offer is contingent upon the community development retention pond being adequate based on the final site design.
3. **Closing Date:** Closing shall take place on or before ten (10) days after:
 - i. Obtaining all necessary municipal approvals;
 - ii. Municipal approval of a Development Agreement between the parties.

4. **Inspection/due diligence period:** Purchaser shall have a 90 day inspection period from the time of the execution of the Purchase and Sale Agreement to complete all environmental, geotechnical, zoning, flood plain, title, and engineering reviews. Seller shall provide any and all information in its possession in a timely manner, including, but not limited to: all maps,, geotechnical and environmental reports; title. Purchaser shall be granted two (2) extension periods of 45 days each if unable to complete all due diligence.
5. **Title:** At closing marketable and insurable title to the Property shall be conveyed to Purchaser of Purchaser's designee by general warranty deed in fee simple absolute free, clear and unencumbered, subject only to easements of record, the leases to be approved by Purchaser during the Inspection period and Installments of real estate taxes a lien but not yet due and payable.
6. **Closing Costs:** Seller shall pay all state and local conveyance fees. Purchaser shall be responsible for recording costs of the deed and other documents that Purchaser requires be recorded.
7. **Real Estate Taxes:** Seller shall pay its prorated share of real estate taxes based on the prior year known property tax. Buyer shall receive a credit against the Purchase Price at closing.
8. **Commission:** Seller shall be responsible for a commission associated with this transaction equal to 8% of \$307,350.00 payable to Commercial Horizons, Inc. attn.: Mike Maedke.

DEVELOPMENT AGREEMENT

Company is an International, Innovator that has engaged Commercial Horizons, Inc. ("Developer") to assist in procuring a site and developing and leasing a new facility that will house its world headquarters. The development will include class "A" office space, laboratories and a pilot plant. Due to the unique nature of this facility, the cost and expense to develop and operate far exceed what the cost to develop a more customary office building. Thus, a substantial financial gap is created and but for, financial assistance to be provided by the City of Appleton, Company would not enter into a lease for the Project and Developer would not be able to proceed with the project.

1. **Developer Obligations:** Developer shall construct the Project in accordance with all applicable City zoning and building codes, ordinances and regulations. Developer warrants and represents to the City that the Project will contain at least 37,000 square feet of space and that the total

development costs expended on the Project (inclusive of personal property and equipment) will be approximately \$17,000,000.00.

2. **City Obligations:** Subject to mutually acceptable terms, covenants and conditions of a Development Agreement and applicable provisions of law, and as an inducement by the City of Appleton to Company and Developer to carry out the Project, the City of Appleton will pay to Company a development investment (the "Investment"). The principal amount of the Investment shall be the lesser of: (i) Three Million Seven Hundred Forty Thousand Dollars (\$3,740,000.00); or (ii) twenty two percent (22%) of the total equalized value of the real and personal property comprising the Project as of January 1 of the year in which the Project is first fully assessed - as such equalized value is determined by the Wisconsin Department of Revenue, minus the base value of the Property, as determined by the Wisconsin Department of Revenue. The Investment will be paid directly to Company in a manner to be negotiated and will include interest on the Investment at the rate of five percent (5%) per annum. Additionally, the City of Appleton will reinvest the amount of the purchase price of the land into the project.

This Letter of Intent shall not create a binding agreement and shall not be constructed as a contract for purchase and sale of Property. It is, however, an expression of certain terms and conditions to be included in the Purchase and Sale Agreement and Development Agreement. Upon receipt of a signed copy of this Letter of Intent, Purchaser shall instruct its legal counsel to prepare the Purchase and Sale Agreement. Seller and Purchaser shall work diligently and in good faith to enter into the Purchase and Sale Agreement within forty-five (45) days after the acceptance of this letter of intent by Seller.

If the terms of this Letter of Intent are acceptable, please sign and return to Paul Klister (Commercial Horizons, Inc.). Thank you.

AGREED TO BY PURCHASER:

Name: _____
Title: _____
Date: _____

AGREED TO BY SELLER:

Name: _____
Title: _____
Date: _____

CALCULATION OF REPURCHASE PRICE PER DEED RESTRICTIONS FOR LOT 13, PLAT 1 SPCP

| | |
|----------------|---------------|
| Purchase Price | \$167,400.00 |
| Sale Date | Oct. 20, 2008 |
| Lot Size | 3.72 Ac |

| | |
|--|-----------|
| Sum of original purchase price | \$167,400 |
| Special Assessments (Add) | - |
| Unpaid Property Taxes (Deduct) | 470 |
| Pro-Rata Current yr. Property Taxes (Deduct) | 2,196 * |
| Title Insurance Premium (Deduct) | 93 |
| RE Commission pd. At closing (Deduct) | 13,392 |
| Liens and encumbrances (Deduct) | ** |
| Option Fee (Deduct) | - |

| | |
|---|-----------|
| ESTIMATED REPURCHASE PRICE | \$151,249 |
| TO SELLER PER DEED RESTRICTION LANGUAGE | |

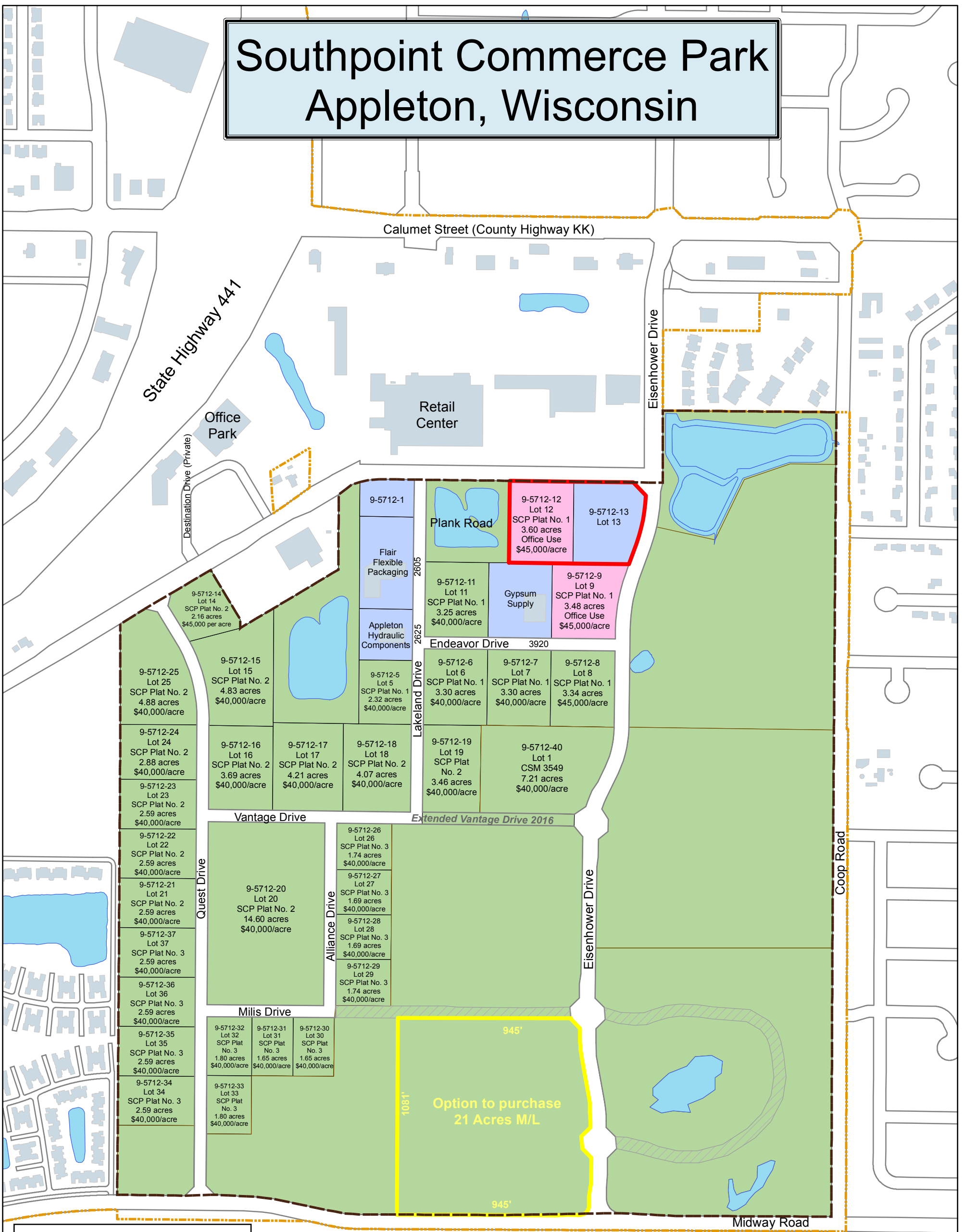
| | |
|-----------------------------|------|
| Estimated Transaction Costs | 1500 |
|-----------------------------|------|

| | |
|-----------------------------|------------------|
| TOTAL ESTIMATED COST | \$152,749 |
|-----------------------------|------------------|

*Assumes close date Aug 1, 2016

**Don't know liens/encumbrances

Southpoint Commerce Park Appleton, Wisconsin



Legend

Park Boundary

Subject Parcels

Option to purchase 21 acres M/L

Proposed Roads

City Limits

Proposed Parcel Lines

AppletonGIS.DBO.ActionPoly

For Sale

Office Use

Sold

Exhibit A
Available Sites

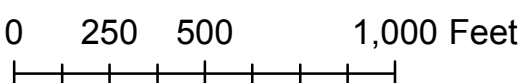


Exhibit B Deed Restrictions



Appleton's Newest Business Opportunity

DECLARATION OF COVENANTS AND RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN
SOUTHPOINT COMMERCE PARK PLATS NO. 1, 2 & 3

This conveyance is made subject to the following conditions, covenants, and understandings, which shall be binding upon the vendee and his/her heirs, successors, and assigns:

1. ***Setbacks:***

- A. *Front Yard:* No building shall be constructed on the site nearer than forty (40) feet of the right-of-way of any public street. In the case of corner lots, both forty (40) foot setbacks will apply.
- B. *Side and Rear Yards:* Minimum side and rear yards shall be twenty-five (25) feet.

2. ***Land Use:***

Restrictions on Use. The Restricted Parcel shall be developed and used solely for the following purpose and for no other purpose:

- 1. Manufacturing;
- 2. Research, development and testing laboratories;
- 3. Wholesaling, warehousing and distribution;
- 4. Office operations only if they are an integral part of and a necessary adjunct to a permitted use;
- 5. Retail sales of products manufactured on site and clearly an accessory use to the primary use of the site and provided on premises sales are limited in floor area to no more than (10) percent of the total gross floor area occupied by the permitted or special use;
- 6. Other land uses may be considered for approval by the Community Development Committee if a determination is made that the project fits the development objectives of the City.

3. *Nuisance Factors and Hazards*

- A. In order to protect the interests of all Tenants, no operation shall be conducted which emits offensive or objectionable noise, vibration, smoke, odors, dust, or gases. Precautions should be taken in all research and other approved operations for radiation, radioactivity, fire, and explosion hazards.
- B. No fuel or chemical in-ground or outdoor storage shall be allowed in the Park.

4. *Building Standards*

- A. Any building erected shall be at least 7,500 square feet in area and have a gross floor area equal to at least 10 percent of the land area.
- B. The maximum ratio of building area (footprint) to total parcel size shall in no event exceed forty (40) percent, exclusive of parking and loading areas. The building footprint, all parking, driveways, and loading areas, when combined, may not exceed seventy (70) percent of the total Parcel size.
- C. Buildings shall be designed by an Architect or Engineer. Complete architectural design must be given to all façades of all buildings with all sides and rear elevations being given architectural treatment compatible with the front elevation of the building.
- D. This Industrial Park encourages a variety of architectural styles. However, it is intended that a basic harmony of architecture prevail among the buildings so that no one structure detract from the attractiveness of the overall development.
- E. The front elevation of the building, any elevation facing a street, and externally visible opaque surfaces shall be a minimum of 75% of materials 1-5 (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms). The side and rear building elevations that do not face any street shall be a minimum of 25% of materials (1-5). Exception to this requirement would be limited to (1) expandable building side with prior approval from the Site Plan Review Committee.
 - 1. Brick;
 - 2. Architectural precast concrete panels (surface finish to be painted, stained, or exposed aggregate). When using concrete panels as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of various textures, colors and accents will be encouraged.
 - 3. Decorative face concrete block. When using decorative face concrete block as an exterior surface the architect should be careful to avoid a monolithic or monotonous appearance and the use of different types and textures (split face, fluted, scored or striated) to provide variety and relief will be encouraged.

4. Cut stone;
 5. Exterior insulation and finish systems (EFIS);
 6. Metal panels may be used only in combination with one of the approved materials. Any metal siding proposed for use shall be entirely coated with a color fast, abrasion and corrosion resistant, long life (minimum of 20 years) finish that is resistant to chemicals, withstands temperature extremes, and has a low permeability. Any material utilized to attach the metal siding to the building shall be concealed or the utilization of shadow panels or semi-concealed fastener panels with fasteners painted to match the panels shall be required.
 7. Other building materials being developed and to be developed by the construction industry. The use of such materials will be reviewed by the Site Plan Review Committee on a case-by-case basis.
- F. Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness, and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.
- G. Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.
- H. The Community Development Committee will approve ancillary structures. Approval may be granted only if such structures are necessary to the principal use of the building site, are in architectural and aesthetic conformance with other buildings or structures on the site, are properly screened, meet all requirements of these covenants and are otherwise satisfactory to the Community Development Committee at its sole discretion.

5. ***Landscaping:***

- A. *Landscape Plan:* The landscaping upon any building site or lot shall be carried out in accordance with a detailed landscaping plan, which has been reviewed and approved in writing by the City's Site Plan Review Committee. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant material, planting size, root condition, and quantity of all plant material. The plan shall show all ground cover and mulch areas, landscape and construction materials, and construction details.
- B. *Landscaping Methods:* Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkler systems, fountains, storm run-off retention ponds, reflective ponds, and landscape lighting.

C. *Plant Material*: Selected plant material should provide for a variety of shade trees, evergreen trees, and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:

1. Disease and insect resistance;
2. Hardiness to the area;
3. The ability to provide seasonal interest;
4. Future maintenance considerations;
5. Ability of plant material to accomplish its intended purpose in each placement.

D. *Time for Completion*: All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.

E. *Maintenance*: The owner shall be responsible for maintaining all landscaping as approved on the original plan for his site. Any variation or changes to the landscape plan must be reviewed and approved in writing by the Community Development Department. Landscaped areas, materials, fixtures, and improvements shall be maintained by the owner of the building site, or by such owner's long-term lessee(s) in good condition at all times. Such maintenance shall include watering, mowing, trimming, pruning, spraying, fertilizing, repairing, replacement of dead plantings, planting, transplanting, dusting, treating, and other common landscape maintenance activities necessary to keep the building site landscaping in a healthy state of growth and visually attractive in appearance.

If the owner or the owner's assigns fail to maintain the landscaping and site per the approved landscaping plan in this section, the City of Appleton or its Agent may seek an inspection warrant to enter the site and conduct such maintenance and to seek full reimbursement.

6. *Utility Controls*

All utilities lines shall be located underground where feasible except for high voltage lines. In the event high voltage lines are required, rear locations nearest and parallel with rear lot lines shall be encouraged.

7. *Parking, Loading*

Off-street parking and loading areas shall be provided on each building site and shall be of sufficient size to accommodate all planned or anticipated parking and loading needs of all site occupants and visitors and comply with the City's Zoning Ordinance regarding parking standards.

1. All truck maneuvering must be confined within the boundaries of the property.
2. All parking, driveways, and loading areas shall be paved.
3. Parking shall be permitted within the minimum front yard setback area; however, it shall be located no closer than fifteen (15) feet to the public right-of-way line. Parking shall be setback a minimum of 6' from the side property line.

Truck loading and receiving areas shall occur in the rear of any buildings or structures on any Lot. Truck loading and receiving areas shall be permitted on the side of such building if sufficient visual screening is installed to screen the dock area from the street.

Truck loading and receiving is normally not permitted in the front of such building unless dictated by the site conditions and only if fully screened from the street. In that event, the Community Development Committee shall review and approve the location of the loading dock. The Community Development Committee may assign this review of plans to the Community Development Department.

8. ***Outdoor Storage:***

No outside storage of any kind shall be permitted unless such stored materials are visually screened from all streets and adjoining properties with a suitable fence, vegetation, berm, or combination thereof approved by the Site Plan Review Committee. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Said storage shall be limited to behind the front line of the building on the property, and within the building setback lines. All refuse containers must be enclosed by a fence of solid material such as will provide a suitable visual screen. No waste material or refuse may be dumped or permitted to remain on any part of the property outside of the buildings. All storage areas shall be paved.

9. ***Roof Mounted Equipment:***

Roof mounted equipment shall be so located and/or screened, and painted to minimize visibility from the street and adjacent owners.

10. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. The signs shall not advertise business services. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Site Plan Review Committee for review.

1. Ground signs must be set back a minimum of 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee.
2. Signs may not be of unusual size or shape when compared to the improvements situated on the site on which the sign is located.

3. Signs may not be installed above the roofline of a building.
4. Pole signs are prohibited.
5. Signs may not contain or utilize any flashing, blinking, intermittent or moving light as source of illumination.
6. No signs shall be located in or painted on any window.
7. Building signs must comply with the City Sign Code.

11. ***Maintenance Responsibilities:***

- A. Each owner shall keep its property, all contiguous street right-of-way to the edge of the pavement, and all drainage and easement areas in a well-maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to the following:
 1. The removal of all litter, trash, refuse, and wastes;
 2. Compliance with the City's noxious weed control ordinance, including the mowing of all grass areas to a height not over 4";
 3. The maintenance of exterior lighting, signs, and mechanical facilities;
 4. The keeping of all exterior building surfaces in a cleaned, well-maintained condition;
 5. The maintenance of all drainage ways including the removal of all debris, weeds, and silt.
- B. The owner of any undeveloped lands shall maintain said lands free of rubbish, noxious weeds, and mosquito breeding pond conditions.

12. ***Site Plan Review:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the owner shall first submit its building plans, specifications, site and landscape plans, elevations of all sides of the building, samples of materials proposed for all external surfaces including colors and textures, and an artist's rendering of the project or a scale model to the Site Plan Review Committee in accordance with Section 23-171 of the City Zoning Code. Renderings should show adjacent buildings, landscaping, screening, signs etc.

13. ***Repurchase Rights:***

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, the City has the option to repurchase said property. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, pro-ration of the current years property taxes to date of closing, title insurance policy premium, real estate commission paid at time of original closing, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof, which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the paragraph above (Failure to Build). Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner.

14. ***Subdivision of Lots:***

After a lot has been purchased, such lot shall not be further subdivided without the written consent of the Community Development Committee. No owner may sell, lease or rent less than all of the lot without the prior written consent of the Community Development Committee. The Community Development Committee may delegate this approval authority to the Community Development Department. The foregoing prohibition shall not apply to occupancy leases of space in a building made in the ordinary course of business.

15. ***Waiver of Notice:***

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

16. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these covenants and restrictions, or any one or more of them, where the circumstances, in its sole

and exclusive judgment, justifies the granting of same.

17. ***Enforcement:***

The Community Development Committee has the responsibility to ensure compliance with the covenants and restrictions through any and all lawful means. In the event that the owner fails to perform in accordance with these covenants and restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special charge. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

18. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said covenants and restrictions at the time of its violation shall in no way affect any of the other covenants or restrictions nor be deemed a waiver of the right to enforce the same thereafter.

19. ***Term:***

Each lot shall be conveyed subject to the covenants and restrictions set forth herein, all of which are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty (30) years from the date of this Declaration of Covenants and Restrictions is recorded, after which time said covenants and restrictions as are then in force and effect shall be automatically renewed for successive periods of ten (10) years each, unless an instrument terminating such covenants and restrictions is recorded with the Outagamie County Register of Deeds by the Common Council as evidenced by a resolution duly adopted by a majority of all members of the Common Council.

Southpoint Commerce Park Appleton, Wisconsin

Calumet Street (County Highway KK)

Slate Highway 441

Office
Park

Retail
Center

Legend

- For Sale
- Office
- Offer
- Sold
- Industrial Park Boundary
- Ponds
- City Limits

Plank Road (County Highway AP)

Eisenhower Drive

Future Pond

9-5700-6
Time Warner Cable
Technical Operations Center

9-5712-1
Mike Roberts
9-5712-2
Lot 2
SCP Plat No. 1
1.44 acres
\$40,000/acre

9-5712-11
Lot 11
SCP Plat No. 1
3.25 acres
\$40,000/acre

9-5712-12
Lot 12
SCP Plat No. 1
3.60 acres
Office Use
\$45,000/acre

9-5712-13
Mike Roberts
RPG 4

9-5712-3
Flair
Flexible
Packaging

9-5712-10
Arrow Moving
Systems, Inc.

9-5712-9
Lot 9
SCP Plat No. 1
3.28 acres
Office Use
\$45,000/acre

9-5712-4
Appleton
Hydraulic
Components

9-5712-6
Lot 6
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-7
Lot 7
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-8
Lot 8
SCP Plat No. 1
3.34 acres
\$45,000/acre

9-5712-5
Lot 5
SCP Plat No. 1
2.32 acres
\$40,000/acre

9-5712-19
Lot 19
SCP Plat
No. 2
3.46 acres
\$40,000/acre

9-5712-16
Lot 16
SCP Plat No. 2
3.69 acres
\$40,000/acre

9-5712-17
Lot 17
SCP Plat No. 2
4.21 acres
\$40,000/acre

9-5712-18
Lot 18
SCP Plat No. 2
4.07 acres
\$40,000/acre

9-5712-25
Lot 25
SCP Plat No. 2
4.88 acres
\$40,000/acre

9-5712-15
Lot 15
SCP Plat No. 2
4.83 acres
\$40,000/acre

9-5712-24
Lot 24
SCP Plat No. 2
2.88 acres
\$40,000/acre

9-5712-23
Lot 23
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-22
Lot 22
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-21
Lot 21
SCP Plat No. 2
2.59 acres
\$40,000/acre

9-5712-37
Lot 37
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-36
Lot 36
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-35
Lot 35
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-34
Lot 34
SCP Plat No. 3
2.59 acres
\$40,000/acre

9-5712-33
Lot 33
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-32
Lot 32
SCP Plat
No. 3
1.80 acres
\$40,000/acre

9-5712-31
Lot 31
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-30
Lot 30
SCP Plat
No. 3
1.65 acres
\$40,000/acre

9-5712-29
Lot 29
SCP Plat
No. 3
1.74 acres
\$40,000/acre

9-5712-28
Lot 28
SCP Plat
No. 3
1.69 acres
\$40,000/acre

9-5712-27
Lot 27
SCP Plat
No. 3
1.69 acres
\$40,000/acre

9-5712-26
Lot 26
SCP Plat
No. 3
1.74 acres
\$40,000/acre

9-5712-20
Lot 20
SCP Plat No. 2
14.60 acres
\$40,000/acre

9-5712-19
Lot 19
SCP Plat
No. 2
3.46 acres
\$40,000/acre

9-5712-18
Lot 18
SCP Plat No. 2
4.07 acres
\$40,000/acre

9-5712-17
Lot 17
SCP Plat No. 2
4.21 acres
\$40,000/acre

9-5712-16
Lot 16
SCP Plat No. 2
3.69 acres
\$40,000/acre

9-5712-15
Lot 15
SCP Plat No. 2
4.83 acres
\$40,000/acre

9-5712-14
Lot 14
SCP Plat No. 2
2.16 acres
\$45,000 per acre

9-5712-13
Mike Roberts
RPG 4

9-5712-12
Lot 12
SCP Plat No. 1
3.60 acres
Office Use
\$45,000/acre

9-5712-11
Lot 11
SCP Plat No. 1
3.25 acres
\$40,000/acre

9-5712-10
Arrow Moving
Systems, Inc.

9-5712-9
Lot 9
SCP Plat No. 1
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Office Use
\$45,000/acre

9-5712-8
Lot 8
SCP Plat No. 1
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\$45,000/acre

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Lot 7
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-6
Lot 6
SCP Plat No. 1
3.30 acres
\$40,000/acre

9-5712-5
Lot 5
SCP Plat No. 1
2.32 acres
\$40,000/acre

Vantage Drive

Quest Drive

Alliance Drive

Milis Drive

Eisenhower Drive

Coop Road

Officially Mapped Midway Road

Midway Road





MEMORANDUM

TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 16, 2016

RE: Request for Variance to Deed Restrictions and Covenants allowing for a fence setback less than fifteen (15) feet from the lot line at 2619 E. Capitol Drive

The City has received a request for a variance to the Deed Restrictions and Covenants (attached) allowing a fence to be constructed less than fifteen (15) feet from the lot line for a property at 2619 E. Capitol Drive (attached).

The tenant (U.S. Army Corps of Engineers) wishes to secure the property with fencing as indicated; however, given the unique shape of the lot and how the building is sited, compliance with the Deed Restrictions and Covenants would create a very narrow access along sections of the building.

While the request is to allow a five (5) foot setback on the north, west and south boundaries, staff recommends the following:

North Boundary:

Subsequent to receiving the request, and in speaking with both the owner of the property (and he has confirmed with the tenant), they are agreeable to locating the fence south of the treeline, which would be approximately fifteen (15) feet south of the property line anyway.

West Boundary:

There is a six (6) foot utility easement located along the entire western property line. To ensure there is no conflict with the easement, we recommend a minimum six and one-half (6 ½) foot setback along the western property border.

South Boundary:

Along the southern boundary, we recommend approval of the five (5) foot setback.

Eastern Boundary:

Not affected by the setback request.

Staff Recommendation:

The Community and Economic Development Committee award a variance to the Deed Restrictions and Covenants allowing for a fence to be built at 2619 E. Capitol Drive with setbacks of six and one-half (6 ½) feet on the western property boundary and five (5) feet on the southern boundary.

CM Real Property, LLC

June 14, 2016

To: Matt Rehbein
City of Appleton
#1273

RE: Fencing variance

Matt,

The current tenant at 2619 E. Capitol Dr, Appleton, WI has requested that a security fence be installed around the property. The tenant is the Army Corps of Engineers. They will be a long term tenant of the property and of the city of Appleton if we can help address their security needs. They would like to install a very attractive, 7 foot tall, ornamental steel fence. The fence will satisfy their security needs, and add to the value of the property.

I am requesting a variance on the distance to the lot lines. I was initially informed by the City that the fence could be installed at the lot lines, which works well for their needs. We have now found that covenants for that are require a 15 foot setback. Some portions of the building are only 20 feet from the property line, so a 15 foot setback would not work along the back of the building.

I would like to request that they be allowed to place the fence at the lot lines. A diagram of the intended plan is attached.

Please let me know if there is anything else needed from me.

Sincerely,

Jeff T. Johnson

US ARMY CORPS OF ENGINEERS
Security Steel Fence System Requirements
Fox River and Wisconsin Operations Office

GENERAL

1.1 WORK INCLUDED

The contractor shall provide all labor, materials and appurtenances necessary for installation of the steel security fence system defined herein at 2619 East Capitol Dr. Appleton, WI.

1.2 SYSTEM DESCRIPTION

The contractor shall remove the approximately 400' existing chainlink fence. The contractor shall supply and install approximately 910' total length of 7' height steel ornamental security fence system similar or equal to the Ameristar® Montage II invincible industrial fence design. The system shall include all components (i.e., pales, rails, posts, gates and hardware) required. Gate requirements (1) 4' walk gate, (1) 32' manual double side cantilever gate, (1) 20' cantilever gate with operator (similar to SL 595 LiftMaster or 9150AGS Ameristar). Gate posts shall be spaced according to the manufacturers' gate drawings, dependent on standard out-to-out gate leaf dimensions and gate hardware selected. Type and quantity of gate hinges shall be based on the application; weight, height, and number of gate cycles. The manufacturers' gate drawings shall identify the necessary gate hardware required for the application. Gate hardware shall be provided by the manufacture of the gate and shall be installed per manufacturer's recommendations.

1.3 QUALITY ASSURANCE

The contractor shall provide laborers and supervisors who are thoroughly familiar with the type of construction involved and materials and techniques specified.

1.4 EXCLUDED

All electrical work and security access control for walk and cantilever gates (electrical work furnished by others-coordinated thru the property owner; this shall include the power for the gate operator and key fob access for the walk entry gate and the 20' gate, as well as a vehicle magnet sensor for the 20' gate). Local municipal permit requirements will be coordinated thru the property owner and City of Appleton. USACE survey staff will locate and mark out fence corners for the fence contractor.

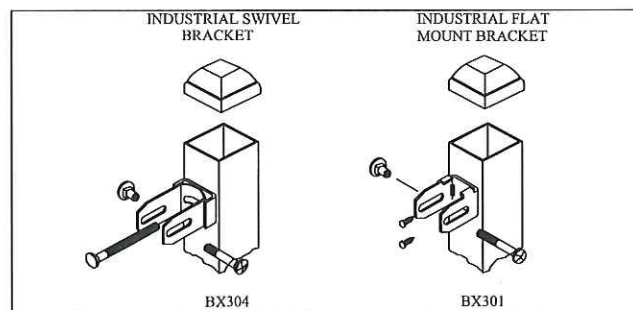
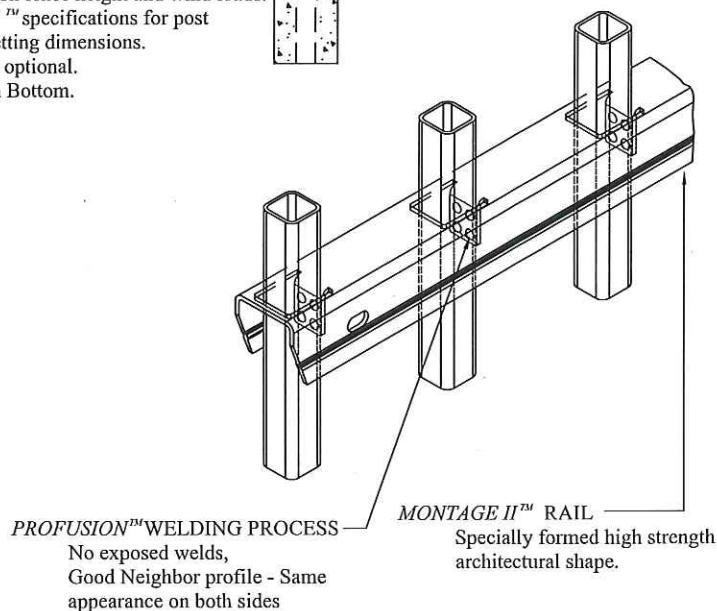
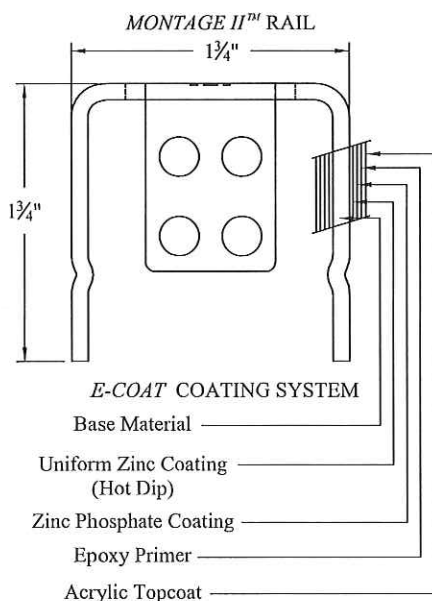
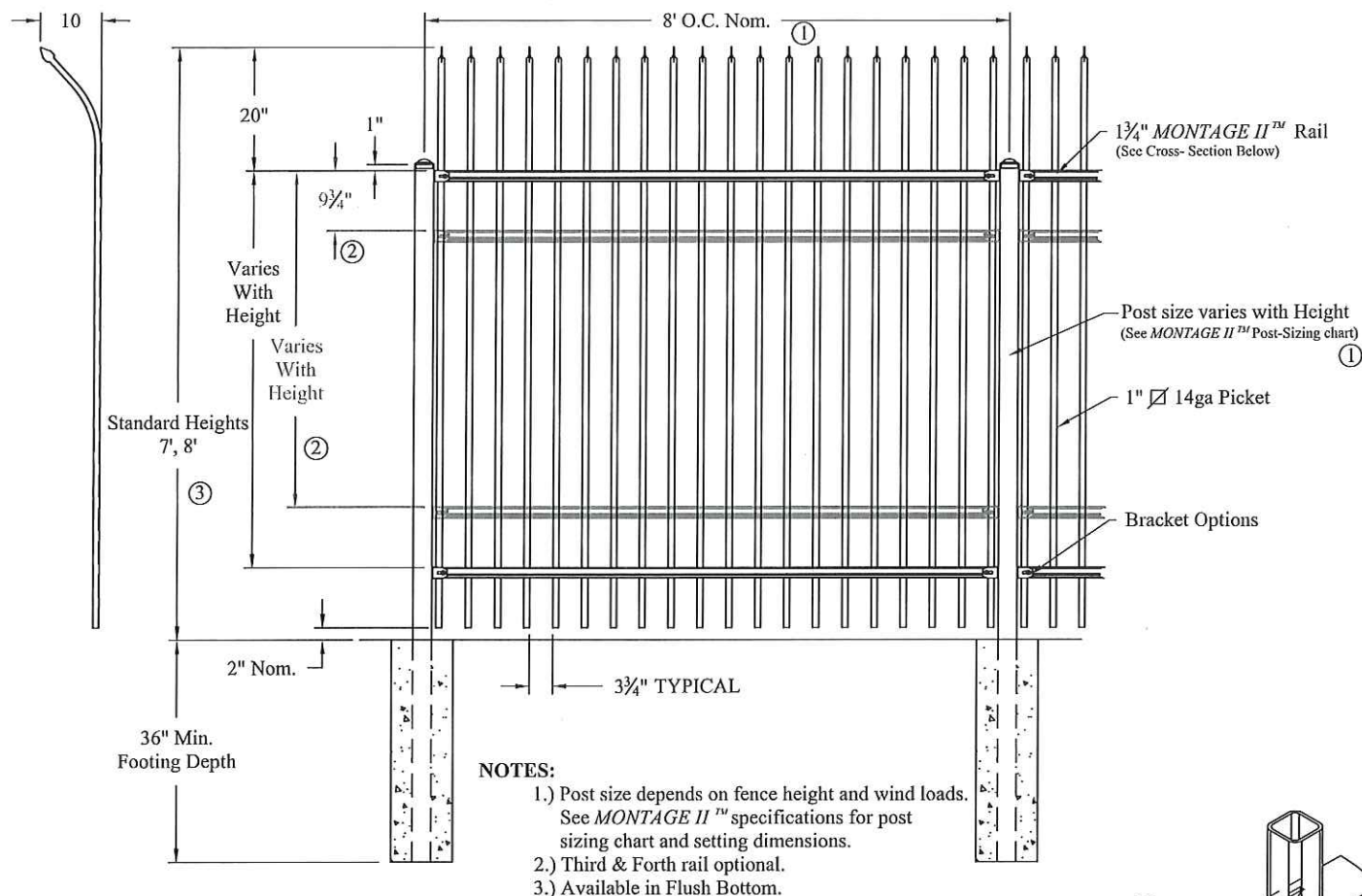
PART 2 - MATERIALS

2.1 MANUFACTURER

A. The steel security fence system shall conform to the manufacturer specifications of the style ornamental fence. Component sizes of the fence system shall be adequate for the height of 7'.

PART 3 INSTALLATION

- A. The 910' of steel security fencing shall be in accordance with the layout drawing provided by USCOE.
- B. All posts for the steel security fence shall be installed at 36" below grade and the post holes shall be filled with concrete (concrete furnished by fence installer).
- C. For all cutting/drilling of rails and posts, a zinc-rich primer paint shall be applied to cover the cut area and a second coat of matching paint shall be applied.



HEAVY INDUSTRIAL STRENGTH WELDED STEEL PANEL
PRE-ASSEMBLED

| | | | |
|--|--------------|---------------------|--|
| Title: MONTAGE II INVINCIBLE 2/3/4-RAIL | | | |
| DR: CI | SH . 1 of 1 | SCALE: DO NOT SCALE | |
| CK: PB | Date 6/28/10 | REV: c | |



AMERISTAR®

1555 N. Mingo
Tulsa, OK 74116
1-888-333-3422
www.ameristarfence.com

Values shown are nominal and not to be used for installation purposes. See product specification for installation requirements.

2HISO

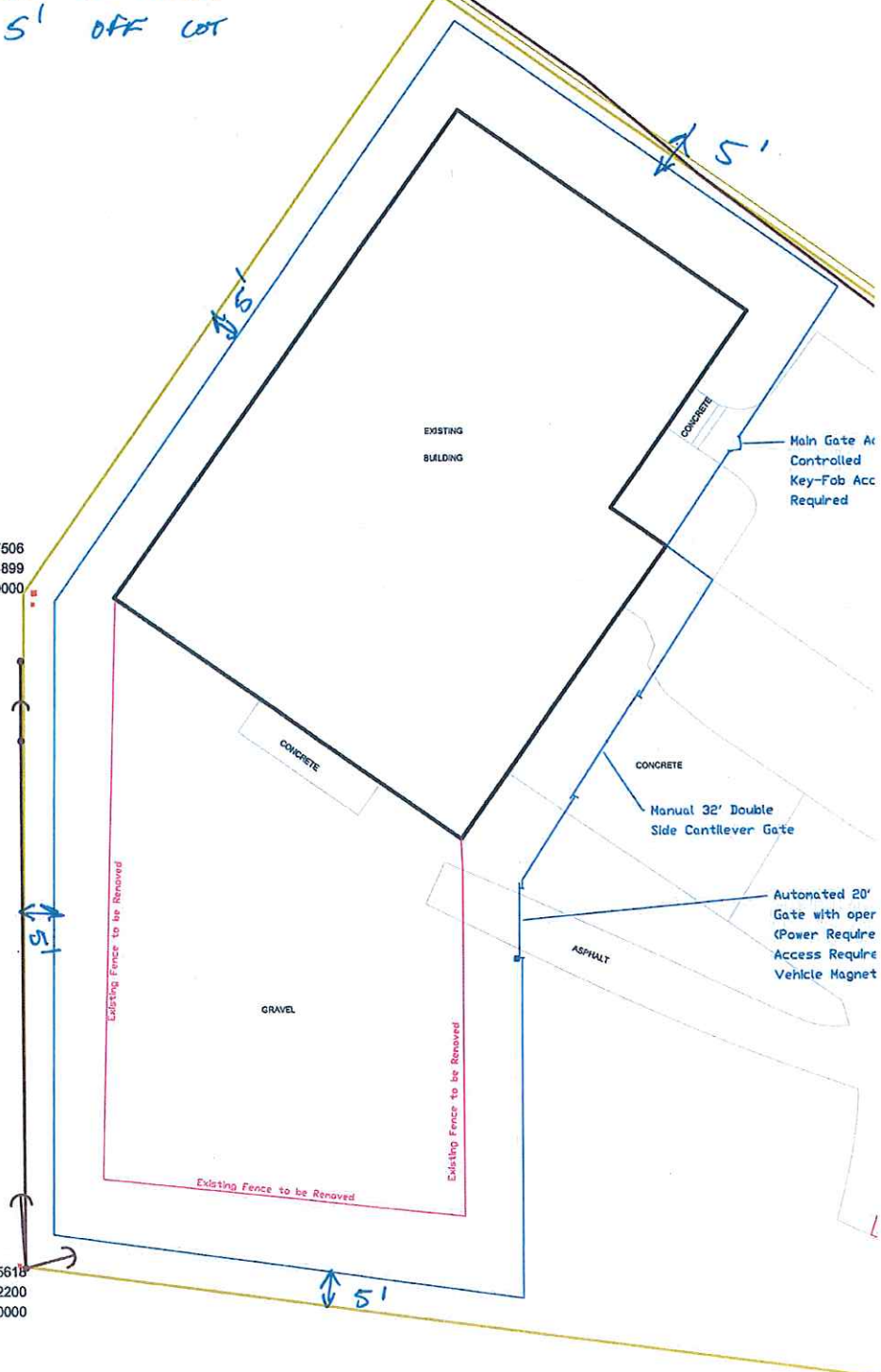
FENCE ON 3 SIDES
TO BE 5' OFF LOT
LINE.

X=4806.1783
Y=5360.4158
Z=0.0000

E. CAPITOL DR

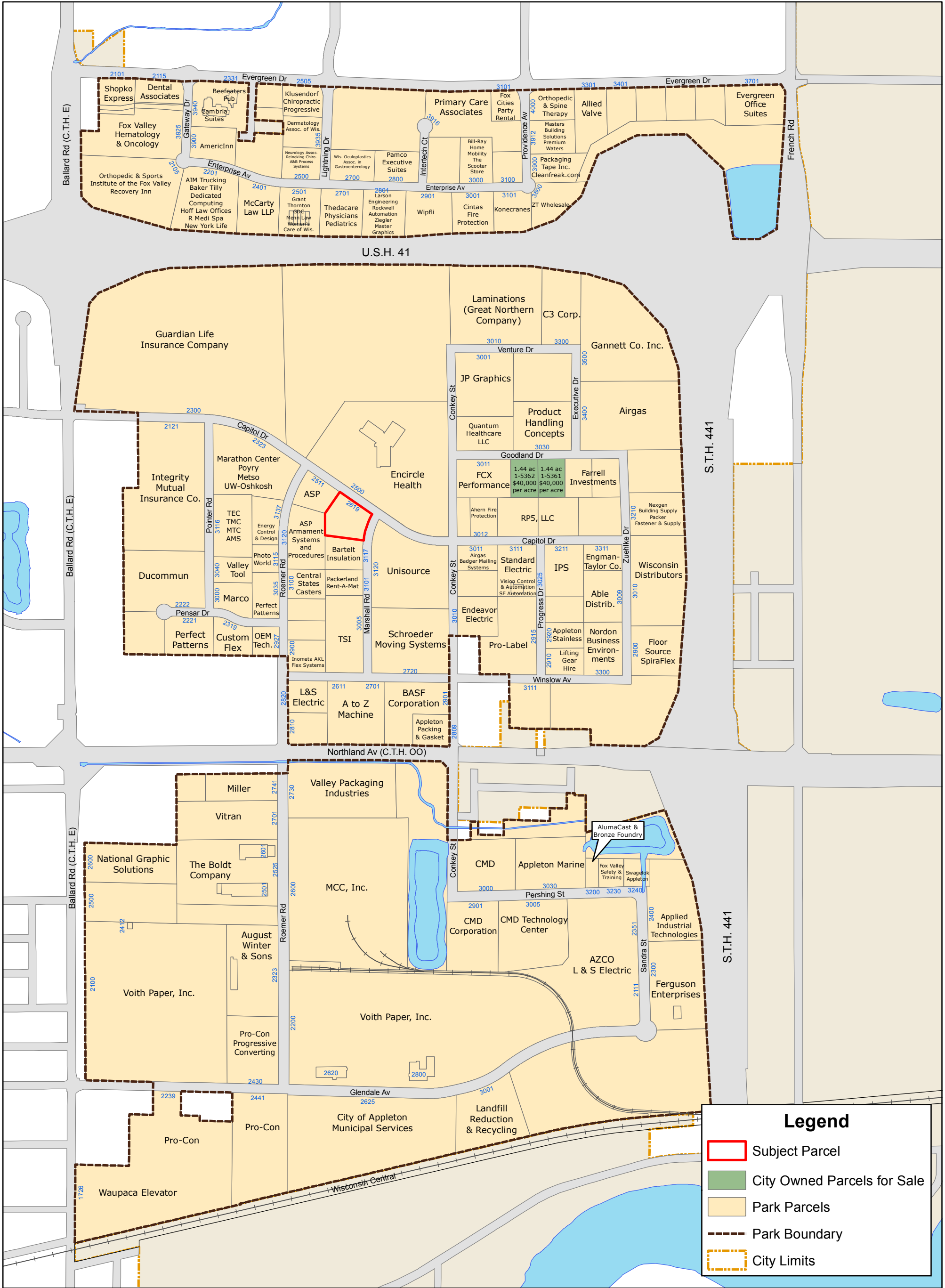
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Z=0.0000

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Y=5041.2200
Z=0.0000



Northeast Business Park

Appleton, Wisconsin



0 0.25 0.5 Miles



DEED RESTRICTIONS

APPLICABLE TO ALL PROPERTIES SOLD IN THE NORTHEAST INDUSTRIAL PARK PLAT NO. 1 AND PLAT NO. 2

This conveyance is made subject to the following conditions, covenants, and understandings which shall be binding upon the vendee, his heirs, successors, and assigns:

1. ***Setbacks:***

- A. *Front Yard:* No building shall be constructed on the site nearer than forty (40) feet of the right-of-way of any public street or highway. In the case of corner lots, both forty (40) feet setbacks will apply.
- B. *Side and Rear Yards:* Minimum side and rear yards shall be twenty-five (25) feet, provided that adjacent property owners may mutually agree to jointly construct common wall structures thereby eliminating any setback between buildings.
- C. *County Highways:* A fifty-five (55) foot building setback shall be observed along CTH 00.

2. ***Land Use:***

Uses in the Industrial Park shall be limited to manufacturing, warehousing or wholesale distribution activities, and administrative offices directly related thereto. Commercial and service uses shall not be permitted.

3. ***Construction and Materials:***

- A. Any building erected shall be of masonry construction or enameled steel or the equivalent thereof.

4. ***Landscaping:***

The front yard area of the site shall be graded, landscaped, and planted with trees, shrubs, ground cover, and appropriate natural landscaping materials. Landscaping shall relate to buildings and paved surfaces as to scale, massing, size, shape, and color. At the time of planting, vegetation shall be of sufficient size as to noticeably enhance the site (i.e., whips are inappropriate as primary landscaping elements). Existing trees shall be preserved whenever possible and may be substituted for part of the required landscaping. Plant material shall be of hardy quality, preferably native of Wisconsin. Weedy or short-lived trees such as Box Elder, Poplar, American Elm, or Willow shall not be acceptable. Vendee shall be responsible for maintenance of vegetation and replacement of any defective plant material.

5. ***Parking, Outdoor Storage Areas, and Vehicle Access:***

All parking and outdoor storage areas shall be paved. Parking shall be permitted within the minimum front yard setback area, however, it shall be located no closer than fifteen (15) feet to the public right-of-way line. The purchaser agrees to provide off-street parking for employees, clients, and visitors.

6. ***Outdoor Storage:***

No outside storage of any kind shall be permitted unless such stored materials are visually screened from all streets with a suitable fence, vegetation, berm, or combination thereof. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Said storage shall be limited to behind the front line of the building on the property, and within the building setback lines. No waste material or refuse may be dumped or permitted to remain on any part of the property outside of the buildings. Storage of fuel oil or other bulk fluids must be underground. Fences, walls, or hedges may not be located closer than fifteen (15) feet to any property line.

7. ***Signs:***

Identification signs shall be permitted to promote only the name and/or trademark of the owner or tenant of the parcel on which the sign is placed. Signs, lighting, etc., are to be indicated on the final site plan submitted to the Community Development Committee for review. Ground signs must be set back 10 feet from the right-of-way line and must be of a low profile design subject to approval by the Committee. Building signs must comply with the City Zoning Ordinance.

8. ***Approval of Plans:***

Before commencing the construction or alterations of any buildings, additions, enclosures, fences, loading docks, parking facilities, storage yards, or any other structures or permanent improvements on or to the real estate conveyed hereby, the vendee shall first submit its building plans, specifications, site and landscape plans, and an elevation sketch of all improvements to be placed thereon to the Community Development Committee for its written approval. In the event the Committee or its assigns shall fail to approve or disapprove in writing such building plans, specifications, site and landscape plans, and elevation sketch within thirty (30) days after they have been submitted to them, such approval will not be required and these restrictions will be deemed to have been complied with. The Community Development Committee may assign this review of plans to the Planning Department.

9. ***Repurchase Rights:***

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, ownership reverts to the City. The price paid to repurchase shall be the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, proration of the current years property taxes to date of closing, title insurance policy premium or cost of warranty abstract, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject, unless an extension of time may be mutually agreed upon and set forth in writing. The purchase price shall be computed as in the Article above. Conveyance shall be by warranty deed. The seller shall furnish title insurance policy at the seller's expense.

10. ***Reciprocal Switching:***

The vendee shall agree to request what is known as "reciprocal switching" from the railroad spur line constructed on or across any property in the industrial park site.

11. ***Waiver of Notice:***

All land sold before major assessable improvements are completed in the business park site shall be subject to the purchaser's waiving notice of assessments and hearings, and such waiver shall be part of the negotiations.

12. ***Variances:***

Notwithstanding anything contained herein to the contrary, the City of Appleton expressly reserves the right at any time to authorize in writing variances from the strict applications of these Deed Restrictions or any one or more of them where the circumstances, in its sole and exclusive judgement, justifies the granting of same.

13. ***Enforcement:***

In the event that the vendee fails to perform in accordance with these restrictions, the Common Council, upon recommendation of the Community Development Committee, may take whatever corrective measures it deems appropriate and assess the cost thereof against the property in the same manner as a special assessment. The Common Council shall give at least thirty (30) days notice to the vendee of any violation and the steps required to correct it prior to taking any action to cure such violation.

14. ***Invalidation:***

The invalidation of any one of the covenants or restrictions herein set forth or the failure to enforce any of said restrictions at the time of its violation shall in no way affect any of the other restrictions nor be deemed a waiver of the right to enforce the same thereafter.

50-16

AN ORDINANCE AMENDING SECTION 3-1 OF CHAPTER 3 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO DEFINITIONS.

(Board of Health – 6-15-16)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 3-1 of Chapter 3 of the Municipal Code of the City of Appleton, relating to definitions, is hereby amended by changing the following to include:

Sec. 3-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal at large means an animal that is off the property and/or premises of the owner and/or caretaker and not under restraint.

Leash means a strap, chain, or cord that is no more than eight (8) feet in length and of appropriate strength to control the animal, used by a person of sufficient capability to restrain, control, and guide an animal.

Molests means excessive barking, running up to or charging, threatening, jumping on or otherwise harassing people or other domestic animals or the passing public that are in the public right-of-way, or on public property, or on their own property, or property of anyone other than the owner and/or caretaker of the animal.

Restraint means that the animal is secured by a leash not more than eight (8) feet in length and under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

51-16

AN ORDINANCE AMENDING SECTION 3-15 OF CHAPTER 3 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO RESTRAINT, NUISANCE ANIMALS.

(Board of Health – 6-15-16)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 3-15 of Chapter 3 of the Municipal Code of the City of Appleton, relating to restraint, nuisance animals, is hereby amended to read as follows:

Sec. 3-15. Restraint, nuisance animals.

(a) The owner and/or caretaker of any animal shall keep an animal within the limits of his or her property and/or premises and when off of the property and/or premises, the animal shall be restrained so that the unprovoked animal does not run at large or become a public nuisance. For purposes of this section, the phrase “running at large” encompasses all places within the City except the owner’s premises, and includes all streets, alleys, sidewalks, other public areas where animals are permitted, and private property.

(b) All owners and/or caretakers shall exercise proper care and control of animals under their ownership, possession and/or custody to prevent them from becoming a public nuisance.

(c) Every female dog or cat in heat shall be confined in a building or secure enclosure, or otherwise restrained, in such a manner that such female dog or cat cannot come into contact with another unneutered male of the same species, except for planned breeding.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.



REPORT TO CITY PLAN COMMISSION

New information is underlined.

Plan Commission Public Hearing Date: May 9, 2016

Plan Commission Meeting: June 6, 2016 per R/B at 5/18/16 Common Council meeting

Common Council Meeting Date: May 18, 2016, June 15, 2016

Item: Special Use Permit #2-16 for a Wireless Telecommunication Tower

Case Manager: Jeff Towne

GENERAL INFORMATION

Owner/Applicant: Professional Associates, LLC; Property Owner
Guy Stewart (representing Central States Tower III, LLC); Applicant

Address/Parcel #: 2700 block North Kesting Court (31-1-4025-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for the construction of a new mobile service structure consisting of an 85-foot monopole tower with associated antennas and equipment at the base of the tower.

This special use permit request was referred back to Plan Commission at the May 18, 2016 Common Council meeting by Alderperson Christopher Croatt.

STAFF ANALYSIS

Existing Site Conditions: The subject property is zoned C-2 General Commercial District. Per the City of Appleton Zoning Ordinance, wireless telecommunication towers require a Special Use Permit in the C-2 General Commercial District. The western portion of the lot contains a parking lot, and the eastern portion is a grass area without improvements. The parcel is 10,088 square feet, which is nonconforming based on the minimum 14,000 square foot lot size of the C-2 District; however, as a nonconforming lot of record, the parcel can be developed without a variance per Sec. 23-42(f) *Nonconforming lots of record* of the Zoning Ordinance.

Special Use Permit: The applicant is proposing an 85-foot monopole wireless telecommunication tower with associated antennas and ground equipment. This facility will be located in the southeastern portion of the site within a 2,500 square feet (50' x 50') leased area (see attached Development Plan). The proposed location of the tower and ground equipment meet the minimum setback standards of the C-2 District. The proposed tower and ground equipment will be located within a chainlink fence enclosure.

Zoning Code Article XIII Sec. 23-424 (i) (1) requires a 4-foot wide landscape buffer of plant materials that effectively screen the view of the tower site from adjacent property. The applicant is showing a buffer that meets this standard.

The applicant is proposing a new telecommunication tower as opposed to co-locating on an existing tower or structure. The Zoning Code requires that the applicant demonstrate why co-location of their wireless telecommunication equipment was not chosen as an alternative to constructing a new tower. The applicant submitted a statement from Mustafa Siamof, RF Engineer for Verizon Wireless, describing the reasons for constructing a new tower over co-locating on an existing tower or structure (see attached letter).

State Statute Revision (2013): In 2013, the State of Wisconsin revised State Statutes Section 66.0404 (attached) regarding local requirements for mobile towers. Local governments can no longer regulate a number of aspects of tower construction, including, but not limited to:

- Enact an ordinance prohibiting the placement of mobile service support structures in particular locations within the political subdivision.
- Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- Prohibit the placement of emergency power systems.
- Limit the duration of any permit that is granted.
- Limit the height of a mobile service support structure to under 200 feet.

Surrounding Zoning and Land Uses:

| | | |
|--------|--------------|------------------------------------|
| North: | Zoning: | C-2 General Commercial |
| | Land Use(s): | Parking lot/Garage |
| South: | Zoning: | R-1B Single-Family Residential |
| | Land Use(s): | Single-family house |
| West: | Zoning: | C-2 General Commercial |
| | Land Use(s): | Office - Harris & Associates, Inc. |
| East: | Zoning: | R-1B Single-Family Residential |
| | Land Use(s): | Church - Apostolic Truth Church |

2010-2030 Comprehensive Plan: The Community Development staff has reviewed the City's 2010-2030 Comprehensive Plan which indicates this area is identified as commercial, indicating it is an appropriate location for a wireless telecommunication tower and associated ground equipment.

Chapter 7: "Utilities and Community Facilities" of the Comprehensive Plan states:

Telecommunications

Private companies provide numerous alternatives for conventional, cellular, and VOIP telephone services within the City of Appleton. Internet services are provided to most customers by companies offering dial-up, DSL, or cable services. An increasing number of companies are offering Wi-Fi services that cover the community. Businesses and other data-intensive users have access to T-1 or T-3 services.

Appleton is part of a regional consortium that will be deploying a regional Wi-Fi network that includes the City of Appleton, City of Neenah, Town of Grand Chute, Outagamie County, Appleton Area School District, Winnebago County and Fox Valley Technical College. The Interactive Network for the Fox Cities (INFOCIS) will start with a 7-mile corridor along College Avenue from Highway 441 to the outer edge of Outagamie County Regional Airport, which is scheduled to come online in 2009. This system is built off a fiber ring that supports several municipalities and agencies in the area.

Article XIII of Appleton's Zoning Ordinance (Sec. 23-420) addresses the siting and design wireless telecommunication facilities (cell towers). The City's ability to regulate wireless telecommunications facilities is limited by the Telecommunications Act of 1996.

The proposed Special Use Permit for the subject parcel is consistent with the following goal of the 2010-2030 Comprehensive Plan:

Overall Community Goals

■ **Goal 1 – Community Growth** (Chapter 10 – Land Use)

Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods and greenfield development sites at the City's edge.

Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under 23-66 (e) (1-6) and Article XIII of the Zoning Code, which were found in the affirmative.

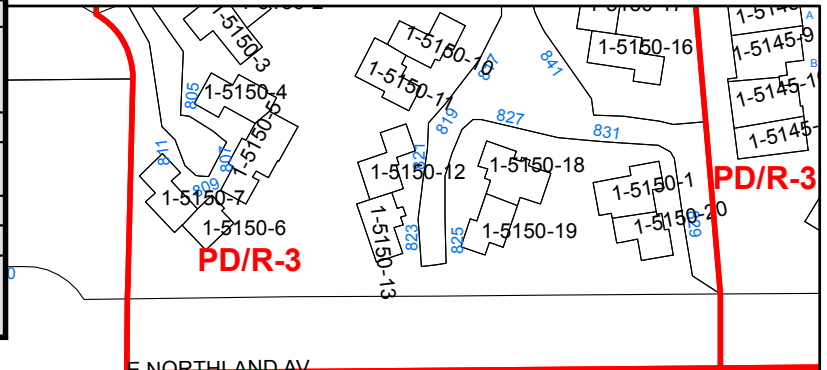
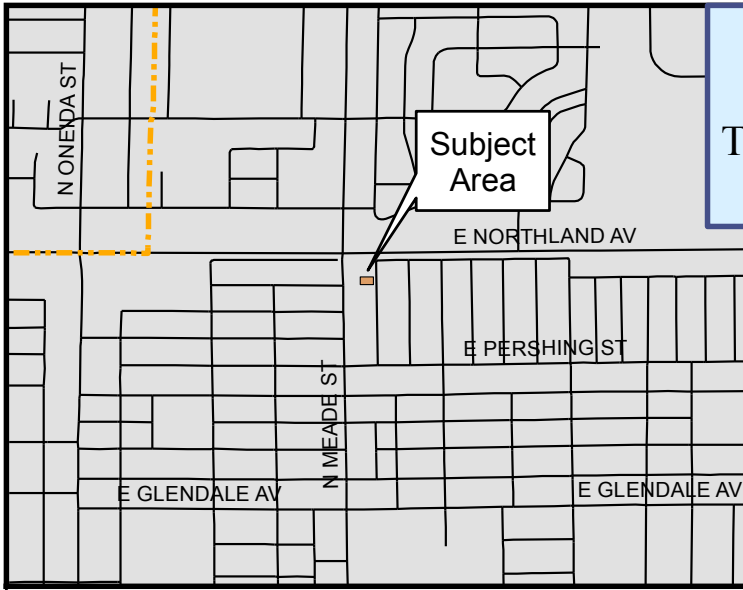
Technical Review Group Report (TRG): This item was discussed at the April 19, 2016 Technical Review Group meeting. The tower's location adjacent to residential properties was discussed.

RECOMMENDATION

Staff recommends and reaffirms, based on the above, that Special Use Permit #2-16 for a wireless telecommunication tower and associated ground equipment, as shown on the attached maps and per attached plan of operation, **BE APPROVED** subject to the following conditions:

1. A Site Plan Review application must be submitted to and approved by the Community and Economic Development Department prior to building permits being issued for the construction of the proposed wireless telecommunication facility.
2. The approved security fencing with privacy slats and landscaping per Sec. 23-424(h) shall be installed and maintained so as to fully screen the wireless telecommunication equipment and the base of the tower. The property owner is responsible for ensuring that screening is maintained.
3. All State and Federal regulations (State Statutes, FAA, FCC) established or administered by agencies other than the City of Appleton shall be adhered to as required.

2700 Block Kesting Court Special Use Permit Tower for Wireless Telecommunication Services Zoning/Vicinity Map

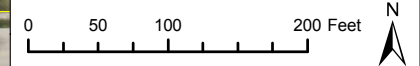


2700 Block Kesting Court
Special Use Permit
Tower for Wireless Telecommunication Services
Aerial Map

Subject Area



City Plan Commission
05-09-2016





CENTRAL STATES TOWER III, LLC



600 BUSSE HIGHWAY
PARK RIDGE, IL 60069
PH: 847-699-6100
FAX: 847-699-6101

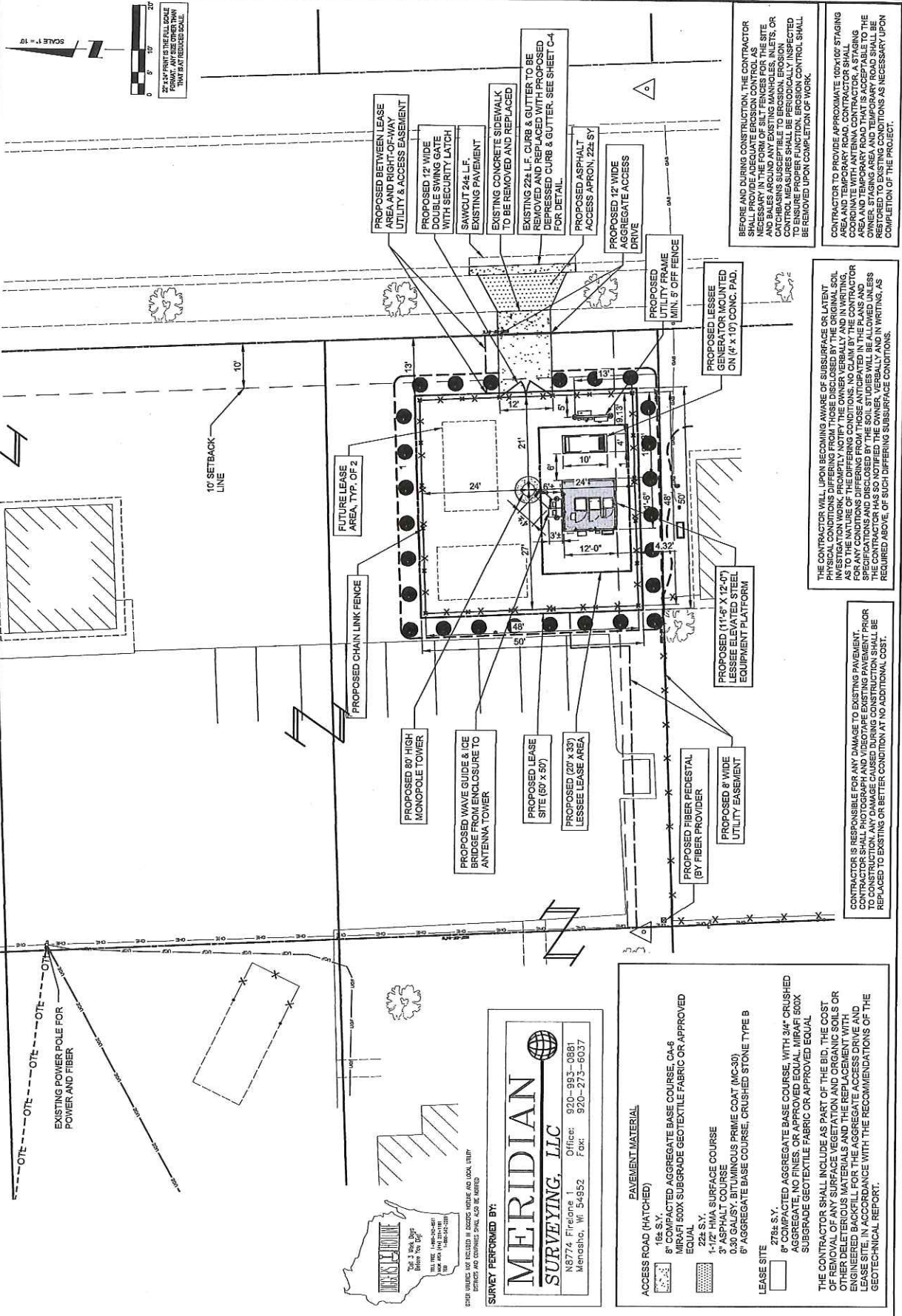
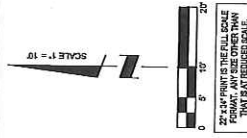
| NO. | DATE | DESCRIPTION |
|-----|----------|----------------------------------|
| 1 | 09/15/15 | ISSUED FOR REVIEW |
| 2 | 01/16/16 | REVISED PER TIME WARNER COMMENTS |
| 3 | 01/16/16 | UPDATES WITH CARLISLE LAYOUT |
| 4 | 02/17/16 | ADDITION OF LANDSCAPE PLAN |
| 5 | 03/16/16 | UPDATE PER LIT COMMENTS |

LOC. # 287788
MEADE STREET

2718 N. MEADE ST.
APPLETON, WI 54913

| | |
|-------------|--------------------|
| CHW BY: | CHW |
| DATE: | 01/15/16 |
| PROJECT #: | 50-152 |
| SHEET TITLE | ENLARGED SITE PLAN |

C-1



MERIDIAN
SURVEYING, LLC
N8774 Firelane 1 Office: 920-993-0881
Menasha, WI 54952 Fax: 920-273-6037

PAVEMENT MATERIAL

ACCESS ROAD (HATCHED)

- 16\"/>
- 8\" COMPACTED AGGREGATE BASE COURSE, CA-6
- MIRAFI 500X SUBGRADE GEOTEXTILE FABRIC OR APPROVED EQUAL
- 22\"/>
- 1-1/2\" HMA SURFACE COURSE
- 3\" ASPHALT COURSE
- 0.30 GAL/SY. BITUMINOUS PRIME COAT (MC-30)
- 8\" AGGREGATE BASE COURSE, CRUSHED STONE TYPE B

LEASE SITE

- 278\" S.Y.
- 8\" COMPACTED AGGREGATE BASE COURSE, WITH 3/4\" CRUSHED AGGREGATE, NO FINES, OR APPROVED EQUAL MIRAFI 500X SUBGRADE GEOTEXTILE FABRIC OR APPROVED EQUAL

THE CONTRACTOR SHALL INCLUDE AS PART OF THE BID, THE COST OF REMOVAL OF ANY SURFACE VEGETATION AND ORGANIC SOILS OR OTHER DELETERIOUS MATERIALS AND THE REPLACEMENT WITH ENGINEERED BACKFILL FOR THE AGGREGATE ACCESS DRIVE AND LEASE SITE, IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE GEOTECHNICAL REPORT.

THE CONTRACTOR WILL, UPON BECOMING AWARE OF SUBSURFACE OR LATENT PHYSICAL CONDITIONS DIFFERING FROM THOSE DISCLOSED BY THE ORIGINAL SOIL TESTS, PROMPTLY NOTIFY THE OWNER, VERBALLY AND IN WRITING, AS TO THE NATURE OF THE DIFFERENCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY CONDITIONS DIFFERING FROM THOSE ANTICIPATED IN THE SPECIFICATIONS AND DISCLOSED BY THE SOIL TESTS WILL BE ALLOWED UNLESS THE CONTRACTOR HAS SO NOTIFIED THE OWNER, VERBALLY AND IN WRITING, AS REQUIRED ABOVE, OF SUCH DIFFERING SUBSURFACE CONDITIONS.

BEFORE AND DURING CONSTRUCTION, THE CONTRACTOR SHALL PROVIDE ADEQUATE EROSION CONTROL MEASURES TO PREVENT EROSION AND BALES AROUND ANY EXISTING MANHOLES, INLETS, OR OTHER STRUCTURES. EROSION CONTROL MEASURES SHALL BE EROSION CONTROL SHALL BE REMOVED UPON COMPLETION OF WORK.

CONTRACTOR TO PROVIDE APPROXIMATE 100'X100' STAGING AREA AND TEMPORARY ROAD. CONTRACTOR SHALL COORDINATE WITH ANTENNA CONTRACTOR, A STAGING AREA SHALL BE PROVIDED AND SHALL BE ACCEPTABLE TO THE OWNER, STAGING AREA AND TEMPORARY ROAD SHALL BE RESTORED TO EXISTING CONDITIONS AS NECESSARY UPON COMPLETION OF THE PROJECT.

CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE TO EXISTING PAVEMENT. ALL PHOTOGRAPHY AND VIDEO TAPES EXISTING PRIOR TO CONSTRUCTION SHALL BE REPRODUCED AND BE REPLACED TO EXISTING OR BETTER CONDITION AT NO ADDITIONAL COST.



CENTRAL STATES TOWER III, LLC



600 BUSSE HIGHWAY
PARK RIDGE, IL 60068
PH: 847 698-6400
FAX: 847 698-6401



600 BUSSE HIGHWAY
PARK RIDGE, IL 60068
PH: 847 698-6400
FAX: 847 698-6401



600 BUSSE HIGHWAY
PARK RIDGE, IL 60068
PH: 847 698-6400
FAX: 847 698-6401

| REVISIONS | | | |
|-----------|----------|-----------------------------------|-----|
| NO. | DATE | DESCRIPTION | BY |
| 1 | 09/15/15 | ISSUED FOR REVIEW | TJS |
| 2 | 10/16/15 | REVISED PER THE WAVEFORM COMMENTS | RA |
| 3 | 01/17/16 | ADDITION OF LADDER LAYOUT | ZCN |
| 4 | 02/17/16 | ADDITION OF LADDER LAYOUT | RA |
| 5 | 03/14/16 | UPDATE PER ILL. COMMENTS | JTM |

LOC. # 287788

MEADE STREET

2718 N. MEADE ST.
APPLETON, WI 54913

DRAWN BY: CHM

CHECKED BY: TAZ

DATE: 01/15/15

PROJECT #: 50-182

SHEET TITLE

SITE ELEVATION

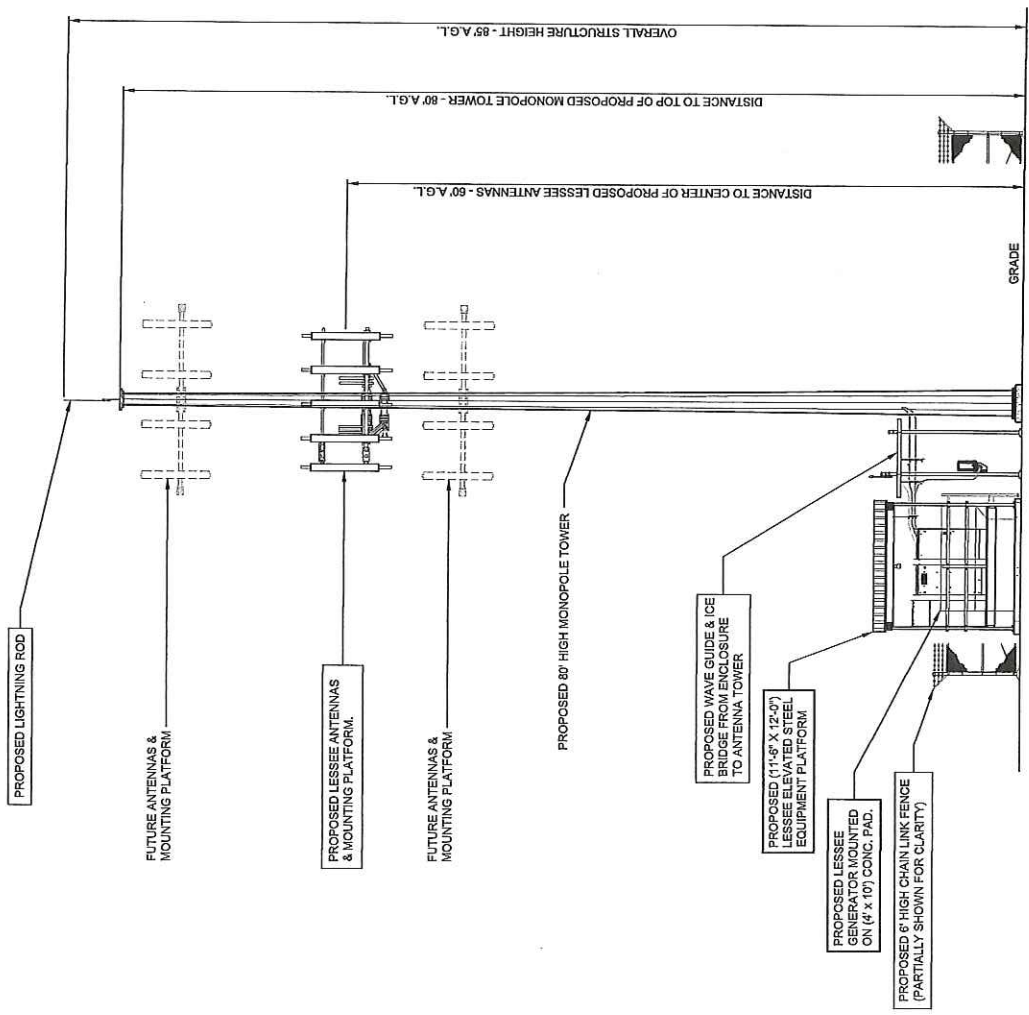
SHEET NUMBER

ANT-1



SCALE: 3/16" = 1'-0"

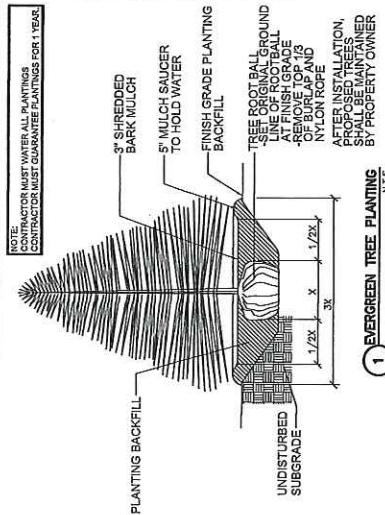
2" x 14" PRINT IS THE FULL SCALE
PLOT AT ANY SIZE OTHER THAN
THIS MAY VIOLATE THE RULE



1 SITE ELEVATION
SCALE: 3/16" = 1'-0"

1. PRUNE NEWLY INSTALLED SHRUBS. WORK SHALL BE DONE BY EXPERIENCED PERSONNEL TO THE ACCEPTED HORTICULTURAL AND ARBORICULTURAL STANDARDS. PRUNING SHALL RESULT IN A LOOSE OUTLINE CONFORMING TO THE GENERAL SHAPE OF THE SHRUB TYPE. DO NOT USE HEDGE SHEARS.
2. ALL PLANTING STOCK SHALL BE NURSERY-GROWN IN ACCORDANCE WITH GOOD HORTICULTURAL PRACTICE. PLANTS SHALL BE FREE OF DISEASE, INSECTS EGGS, LARVAE AND DEFECTS SUCH AS KNOTS, SUN-SCALD, INJURIES, ABRASIONS OR DISFIGUREMENT. THEY SHALL HAVE SOUND, HEALTHY ROOTS AND BE WELL DEVELOPED. PLANTS SHALL BE OF THE SPECIFIED VARIETY, WELL-FORMED, FREE FROM IRREGULARITIES AND WITH THE MINIMUM QUALITY AND SIZE CONFORMING TO AMERICAN STANDARD FOR NURSERY STOCK.

3. GUARANTEE: WARRANT ALL PLANT MATERIAL TO BE TRUE TO BOTANICAL NAME AND SPECIFIED SIZE. AFTER COMPLETION OF PLANTING, ALL PLANT MATERIALS SHALL BE WARRANTED AGAINST DEFECTS, INCLUDING DEATH, UNSATISFACTORY GROWTH FOR A WARRANTY PERIOD OF ONE YEAR. THE CONTRACTOR WILL NOT BE RESPONSIBLE FOR DEFECTS RESULTING FROM NEGLECT, ABUSE, DAMAGE BY OTHERS, OR UNUSUAL PHENOMENA OR INCIDENTS BEYOND THE CONTRACTOR CONTROL WHICH RESULT FROM NATURAL CAUSES SUCH AS FLOODS, DROUGHTS, HAIL, OR VANDALISM.
4. REPLACEMENT: WITHIN THE WARRANTY PERIOD, REPLACE ONE TIME, AT NO ADDITIONAL COST TO THE OWNER, PLANT MATERIALS THAT ARE DEAD IN THE OPINION OF THE LANDSCAPE ARCHITECT, IN AN UNHEALTHY OR UNSUITABLE CONDITION, REJECTED PLANT MATERIALS SHALL BE REMOVED FROM THE SITE AT CONTRACTOR'S EXPENSE. REPLACEMENTS ARE TO BE MADE NO LATER THAN THE SUBSEQUENT PLANTING SEASON. RESTORE AREAS DISTURBED BY REPLACEMENT OPERATIONS.
5. MULCHING: SHALL BE DONE WITHIN 48 HOURS AFTER PLANTING. MULCH SHRUB BEDS TO NINE INCHES DEEP. MULCH TREE BEDS TO SEVEN INCHES DEEP. COMPORTED PINE BARK MULCH FREE OF FOREIGN MATERIAL. BE CLEARANCE PIECES OVER THREE INCHES LONG. DO NOT MULCH TREE AND SHRUB PLANTING PITS. TOPSOIL SHALL CONSIST OF FERTILE FRIABLE NATURAL LOAM, CONTAINING A LIBERAL AMOUNT OF HUMUS AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL. IT SHALL BE FREE OF ADMIXTURES OF SUBSOIL AND FREE OF CRAB GRASS, ROOTS, STICKS AND OTHER EXTRANEUS MATTER, AND SHALL NOT BE USED FOR PLANTING OPERATIONS WHILE IN A FROZEN OR MUDDY CONDITIONS.
6. REPAIR ALL TURF AREAS BY SEEDING. SEEDING INSTALLATION SHALL BE EXECUTED ONLY AFTER ALL FINISH GRADING HAS BEEN COMPLETED. NO SEEDING WORK SHALL BE DONE POST SEPTEMBER 15, UNLESS APPROVED BY THE OWNER'S REPRESENTATIVE.
SEED: SEED MIX SHALL MATCH EXISTING TURF, OR BE A 50/50 MIX OF CERTIFIED SEED, BLENDED BLUEGRASS AND CERTIFIED IMPROVED PERENNIAL RYE MIX. SEED SHALL BE APPLIED AT A MINIMUM RATE OF 120 POUNDS PER ACRE. SEEDING SHALL BE APPLIED AT A MINIMUM RATE OF 120 POUNDS PER ACRE. FUTTERA BLANKET, OR EQUIV, SHALL BE USED FOR EROSION CONTROL MULCH WHERE NECESSARY IN LEU OF HYDRO MULCH.



1 **EVERGREEN TREE PLANTING** N.T.S.

OTHER UTILITIES NOT INCLUDED IN HOUSING, WASTE AND LOCAL UTILITY
DECREASING AND DECOMMISSIONING COSTS ARE NOTIFIED

ANY GRASS AREA DISTURBED DURING CONSTRUCTION SHALL BE RESTORED DRESSED WITH TOPSOIL, SEEDDED OR SOD TO EXISTING OR BETTER CONDITION.

**PROPOSED LEASE
SITE (50' x 50')**

PROPOSED 80' HIGH
MONOPOLE TOWER

PROPOSED (11'-6" X 12'-0")
MISSISSIPPI ELEVATED STEEL
ALIGNMENT PLATEFORM



NE

Call 3 Walk Days Before You Die!

TOLL FREE 1-800-294-4511
 NEW YORK AREA (914) 256-1141
 MD (1-800-552-2121)

| PLANT LIST | | | |
|------------|-------------------|-------------------------|----------------|
| SYMBOL | BOTANICAL NAME | COMMON NAME | PLANT QUANTITY |
| | | | PLANT SYMBOL |
| VD | VIBURNUM DENTATUM | CHICAGO LUSTRE VIBURNUM | 26 |

B & B (BALLED & BURLAPPED)

3 FT. HT. MIN.

CHICAGO LUSTRE VIBURNUM

VD VIBURNUM DENTATUM

1 **EVERGREEN TREE PLANTING** **N.T.S.**



CST

TERRA
CONCRETE GROUP, LTD.
600 BUSSE HIGHWAY
PARK RIDGE, IL 60068
PH: 847-698-6400
FAX: 847-698-6401

| NO | DESCRIPTION | DATE | BY |
|----|----------------------------------|----------|-----|
| - | ISSUED FOR REVIEW | 09/15/15 | TJS |
| 1 | REVISED PER TIME WARNER COMMENTS | 10/16/15 | RA |
| 2 | UPDATED WITH CURRENT LAYOUT | 01/14/16 | ZCN |
| 3 | ADDITION OF LANDSCAPE PLAN | 02/17/16 | RA |
| 4 | UPDATE PER ALL COMMENTS | 03/16/16 | JML |
| 5. | | | |

LOC. # 287788
MEADE STREET

2718 N. MEADE ST.
APPLETON, WI 54913

| | |
|------------|-----|
| AWN BY: | CMM |
| HECKED BY: | TJZ |

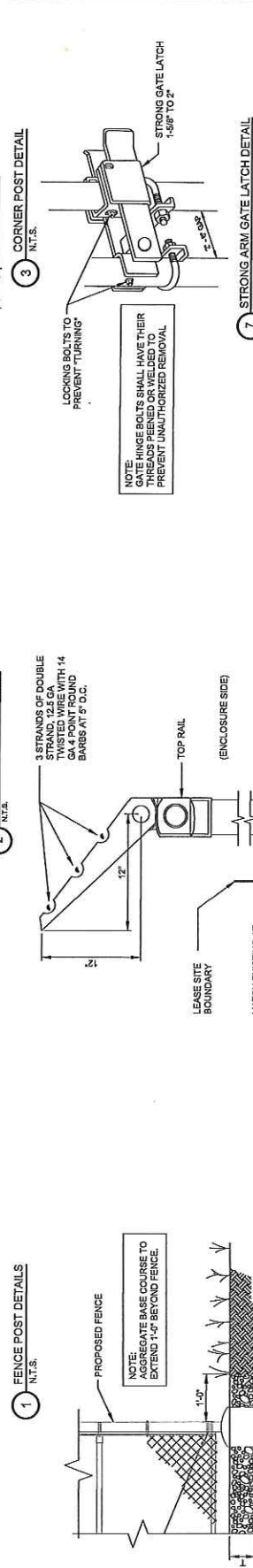
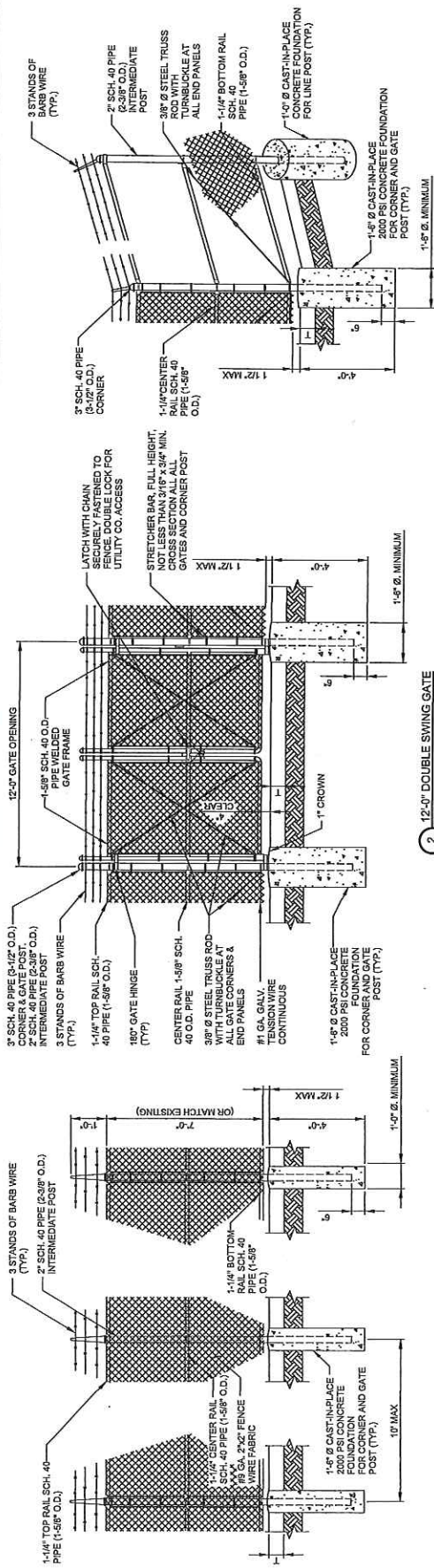
TE: 5/11/15

| PROJECT# | SHEET TITLE | LANDSCAPE |
|----------|-------------|-----------|
| 50-182 | | |

LANDSCAPE
PLAN

SHEET NUMBER

三



GENERAL NOTES

1) G.C. IS RESPONSIBLE TO PAY AND SCHEDULE THIRD PARTY INSPECTIONS FOR BOTH TOWER AND BUILDING FOUNDATIONS. VZW GETS COPIES AT CLOSE OUT.

COPIES OF THE REPORT ARE ISSUED TO THE CONTRACTOR FOR CONVENIENCE ONLY. THE REPORT IS NOT A PART OF THE CONTRACT DOCUMENTS. NEITHER THE OWNER NOR THE ENGINEER/ARCHITECT GUARANTEES THE ACCURACY OR VALIDITY OF THE DATA CONTAINED THEREIN, NOR DO THEY ASSUME ANY RESPONSIBILITY FOR THE CONTRACTOR'S USE OR INTERPRETATION OF THE DATA CONTAINED THEREIN.

| GEOTEXTILE PARAMETERS | | |
|-----------------------|-------------------|----------------|
| PROPERTY | MINIMUM VALUE (a) | TEST METHOD |
| GRAB STRENGTH | 180 LBS. | ASTM D-4533-91 |
| PUNCTURE STRENGTH | 75 LBS. | ASTM D-4533-98 |
| BURST STRENGTH | 290 LBS. | ASTM D-3768 |
| TRAPEZOIDAL TEAR | 50 LBS. | ASTM D-4571-97 |

(a) ALL VALUES REPRESENT MINIMUM ROLL VALUES

NOTES:

THE FABRIC SHOULD BE PLACED IN ACCORDANCE WITH THE MANUFACTURERS RECOMMENDATIONS. INTERSECTIONS OF SHEETS MUST BE SOWN OR SUFFICIENTLY OVERLAPPED (AT LEAST 24 INCHES) OR AS SPECIFIED BY THE MANUFACTURER. THE GEOTEXTILE SHEETS SHOULD ALSO BE PLACED TAUT TO REDUCE WRINKLES OR FOLDS. CARE MUST BE EXERCISED TO PREVENT PHYSICAL DAMAGE OF THE GEOTEXTILE PRIOR TO, DURING AND AFTER INSTALLATION. UTILITIES SHOULD BE INSTALLED BEFORE PLACING THE FABRIC.

INVEST IN INDIANA

Total 3 Truck Days Before The Go!

THE IND. DEPT. OF COMMERCE
 100 N. MERIDIAN, SUITE 100-1000
 INDIANAPOLIS, IN 46204-1000
 TEL: (317) 232-2200
 FAX: (317) 232-2200

POST: STEEL EITHER 1" OR 1½" TYPE OR 2" HARDWOOD.
FENCE: WOVEN WIRE, 14 1/2" GAUGE, 6' MAX. MESH OPENING
FILTER CLOTH: FILTER X, MIRAFI 100X, STABILINKS T140N OR APPROVED EQUAL
PREFABRICATED UNIT: GEOFAB, ENVIROFENCE

NOTE:
DEPENDENT UPON CONFIGURATION, ATTACH
FABRIC TO WIRE MESH W/HOG RINGS, STEEL
POSTS W/ TIE WIRES, WOOD POSTS W/ NAILS.

8 EROSION CONTROL SILT FENCE DETAIL
N.T.S.

5 AGGREGATE CROSS-SECTION
ACCESS ROAD

N.T.S.

AGENT AUTHORIZATION LETTER

DATE: March 16, 2016

TO: City of Appleton
Community Development Department
100 N. Appleton Street, Appleton, WI 54911

RE: Meade St communication tower
Project name

The undersigned, Robert Harris
Property Owner name
is the owner of property known as 2718 N. Meade Street 311402300, 311402400, 311402500
address, tax key number

The undersigned authorizes Guy Stewart
Agent name
to sign and file an application on behalf of Profesional Associates, Inc.
Property Owner name
to Install a communications tower at the above property address

Describe Project
Robert Harris also authorizes
Property Owner name
Guy Stewart to execute any and all other
Agent name
documentation and/or applications required by the City for the intended project
and appear on its behalf before the Plan Commission and Common Council in
proceedings relating to the application.

Executed as of the day and year first above set forth.

Robert Harris
Signature of property owner

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: CENTRAL STATES TOWERS / VERIZON WIRELESS

Years in operation: 20 plus

Type of proposed establishment (detailed explanation of business):

COMMUNICATIONS TOWER AND ASSOCIATED
EQUIPMENT

Proposed Hours of Operation:

| Day | From | To |
|----------|------|----|
| Week Day | 24/7 | |
| Friday | 24/7 | |
| Saturday | 24/7 | |
| Sunday | 24/7 | |

Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 400 persons

Gross floor area of the existing building(s):

OUTSIDE CABINETS

Gross floor area of the proposed building(s):

SEE ATTACHED

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

SEE ATTACHED

Outdoor Uses:

Type, location, size of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:

50 X 50 LEASED AREA

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):

505 ATTACHED

Type, location, size of outdoor display area(s) of merchandise for sale:

50 X 50 LEASED AREA

Number of Employees:

Number of existing employees: 2

Number of proposed employees: 2

Number of employees scheduled to work on the largest shift: 2

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

INTERMITTENT GENERATOR TESTING

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all mechanical equipment:

SEE ATTACHED - ATTENUATED GULLOUSE

How will the noise be controlled?

SEE ATTACHED

Outdoor Lighting:

Type: SERVICE LIGHT SEE ATTACHED

Location: _____

Off-Street Parking:

Number of spaces existing: NONE

Number of spaces proposed: 2

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

SEE ATTACHED

Sabre Industries™

Towers and Poles

March 21, 2016

Mr. Yuri Dobrowolsky
Director of Construction
Central States Tower
323 South Hale Street, Suite 100
Wheaton, IL 60187

RE: Proposed 85 ft Sabre Monopole for Meade Street, WI

Dear Mr. Dobrowolsky,

Upon receipt of order, we propose to design and supply the above referenced Sabre monopole for a Basic Wind Speed of 90 mph with no ice and 40 mph with 1/2" ice, Structure Class II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA-222-G, "Structural Standard for Antenna Supporting Structures and Antennas" to support at least four cellular carriers.

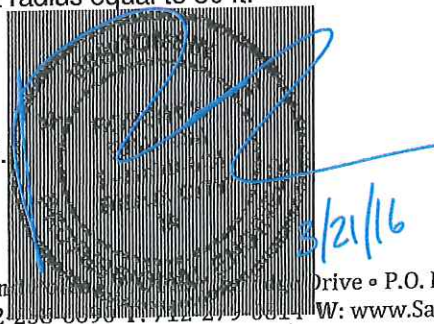
When designed according to this standard, the wind pressures and steel strength capacities include several safety factors, resulting in an overall minimum safety factor of 25%. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within one of the monopole shaft sections. This would result in a buckling failure mode, where the steel shaft would bend beyond its elastic limit (beyond the point where the shaft would return to its original shape upon removal of the wind load).

Therefore, the overall effect of an extreme wind event would be localized buckling of the monopole shaft. Assuming that the wind pressure profile is similar to that used to design the monopole, the shaft will buckle at the location of the highest combined stress ratio in the upper portion of the monopole. This would result in the portion of the monopole above "folding over" onto the portion below, essentially collapsing upon itself. **Please note that this letter only applies to a monopole designed and manufactured by Sabre Towers & Poles.** In the unlikely event of total separation, this, in turn, would result in collapse of that portion to the ground within a radius equal to 30 ft.

Sincerely,

Robert E. Beacom, P.E., S.E.
Design Engineer II



SWORN STATEMENT OF MUSTAFA SIAMOF IN SUPPORT OF NEW TOWER CONSTRUCTION
PURSUANT TO WIS. STAT. §66.0404

OUTAGAMIE COUNTY)
) ss.
STATE OF WISCONSIN)

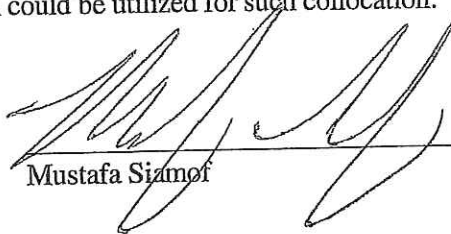
MUSTAFA SIAMOF, being first duly sworn on oath, deposes and says that:

1. I am an adult resident of the State of Wisconsin and serve as RF Engineer at Verizon Wireless.


2. My job duties include responsibility over the placement of the mobile service support structure being proposed by 2718 N Meade St Appleton WI 54913

3. This sworn statement is made pursuant to Wis. Stat. §66.0404(2)(b)6.

4. The Verizon Wireless Proposal is being submitted because collocation within Verizon Wireless' search ring for the area covered by the Verizon Wireless Proposal is infeasible, as no existing structures of any kind currently exist which could be utilized for such collocation.


Mustafa Siamof

Subscribed and sworn to before me
this day of 2nd of December 2015


Notary Public, State of Wisconsin
My commission: 10/20/16

TOWAIR Determination Results

*** NOTICE ***

TOWAIR's findings are not definitive or binding, and we cannot guarantee that the data in TOWAIR are fully current and accurate. In some instances, TOWAIR may yield results that differ from application of the criteria set out in 47 C.F.R. Section 17.7 and 14 C.F.R. Section 77.13. A positive finding by TOWAIR recommending notification should be given considerable weight. On the other hand, a finding by TOWAIR recommending either for or against notification is not conclusive. It is the responsibility of each ASR participant to exercise due diligence to determine if it must coordinate its structure with the FAA. TOWAIR is only one tool designed to assist ASR participants in exercising this due diligence, and further investigation may be necessary to determine if FAA coordination is appropriate.

Determination Results

Structure does not require registration. There are no airports within 8 kilometers (5 miles) of the coordinates you provided.

Your Specifications

NAD83 Coordinates

| | |
|-----------|------------------|
| Latitude | 44-17-11.2 north |
| Longitude | 088-23-41.1 west |

Measurements (Meters)

| | |
|--------------------------------|-------|
| Overall Structure Height (AGL) | 25.9 |
| Support Structure Height (AGL) | 24.4 |
| Site Elevation (AMSL) | 235.6 |

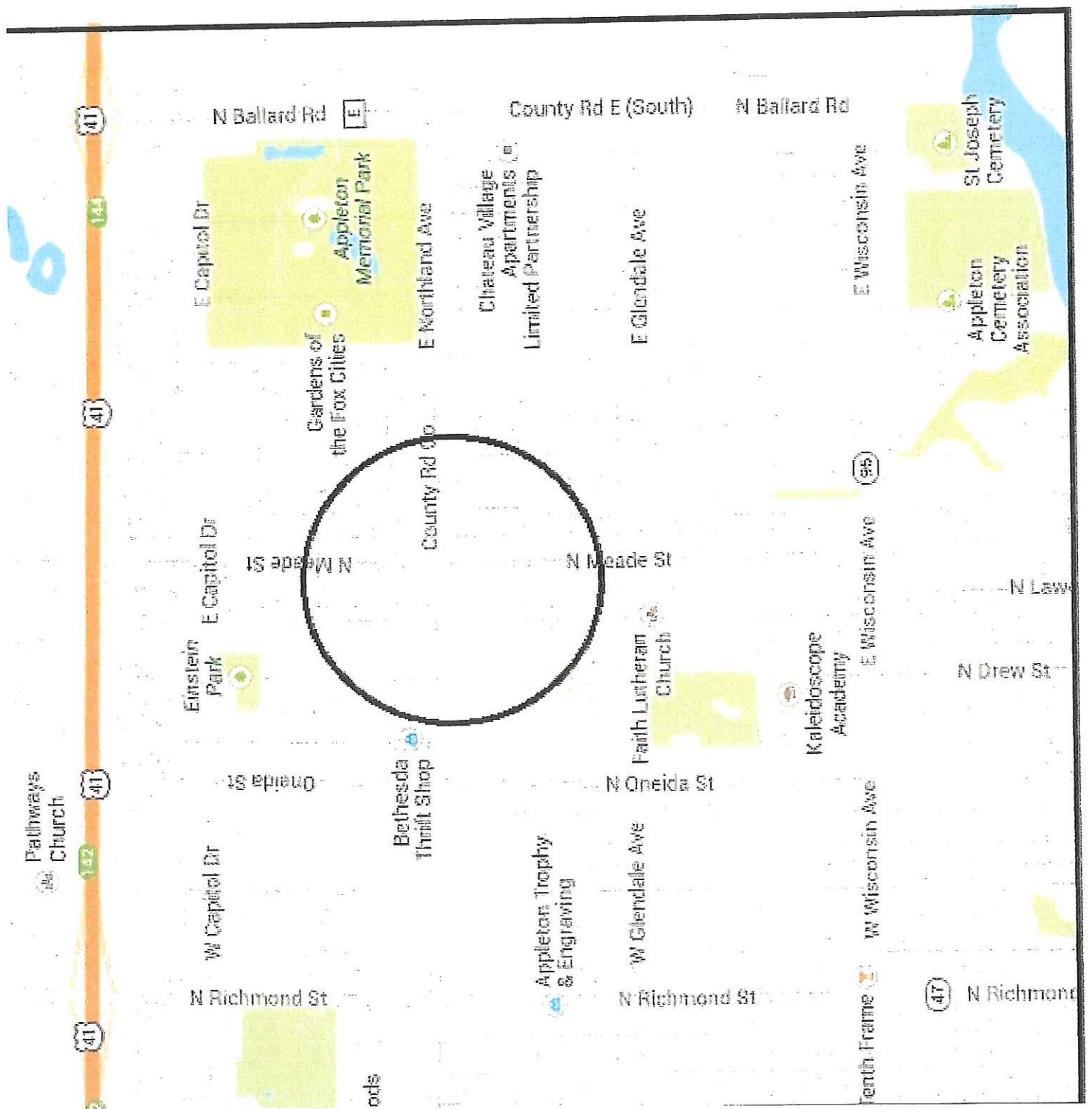
Structure Type

MTOWER - Monopole

Tower Construction Notifications

Notify Tribes and Historic Preservation Officers of your plans to build a tower.

CLOSE WINDOW



READ

Real Estate Acquisition & Development, LLC

Jeff Towne
Principal Planner
Department of Community Development
City of Appleton
100 N. Appleton Street
Appleton, WI 54501

April 12, 2016

Re: Special Use Permit Application - Central States Tower III, LLC-New Mobile Service Support Structure and Mobile Service Facility/MTW of Appleton, Inc. Property located at 2718 N Meade Street Appleton WI 54913. Parcel ID #: 331402300, 311402400, 311402500

Jeff Towne

Please find enclosed, the required project information along with a completed City of Appleton Special Use Permit application form for Central States Tower III, LLC ("CST") and Verizon Wireless,. This application has been prepared in accordance with the State of Wisconsin Mobile tower siting regulations found at Wis. Stat. Sect. 66.0404. The application procedures for a new mobile service support structure (tower) and mobile service facility (communications equipment) are found at Wis. Stat. Sect. 66.0404(2)(b) and list six (6) requirements for a completed application.

Below is a narrative on these six (6) requirements, including the specific project information. I have also enclosed a copy of the State of Wisconsin regulations for your reference as you review this submittal.

1. The name and business address of, and the contact individual of, the applicant.

Applicant (s):
Central States Tower III, LLC
323 South Hale Street, Suite 100
LLC
Wheaton, IL 60187

Contact Individual:
Guy Stewart
Real Estate Acquisition & Development,
3703 North Point Dr.
Stevens Point WI 54481

Verizon Wireless
1515 Woodfield Road
Schaumburg, IL 60173

2. The location of the proposed support structure.

2718 N Meade Street Appleton WI 54913. Parcel ID #: 331402300, 311402400, 311402500

The location of the proposed 80' monopole tower structure (85' overall with lightning rod) is in the southeast corner of the above referenced parcel within a 50' x 50' lease area as depicted in the enclosed survey and construction drawings.

3703 North Point Dr
Stevens Point WI 54481
715.340.2123

READ

Real Estate Acquisition & Development, LLC

3. The location of the proposed mobile service facility.

2718 N Meade Street Appleton WI 54913. Parcel ID #: 331402300, 311402400, 311402500

CST proposes to construct an 80' monopole type tower structure (85' overall with lightning rod) for the immediate use by Verizon Wireless in the southeast corner of the property 2718 N Meade Street Appleton WI 54913. Parcel ID #: 331402300, 311402400, 311402500. This new tower structure will be located within a 50' x 50' ground lease area as depicted in the enclosed survey and construction drawings. Verizon Wireless will locate its antennas and equipment upon the tower at the 60' centerline, route its coax/cabling down the inside of the tower, and install outside equipment with a generator at grade near the base of the tower structure all within the CST ground lease area. Also, the monopole tower and compound is designed to accommodate at least two (2) additional similar wireless telecommunications equipment installations besides the one contemplated by Verizon Wireless.

4. If the application is to substantially modify an existing support structure...

The application is for a new 80' monopole tower (85' overall with lightning rod), therefore the submittal requirements of this section are not applicable.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile services support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

See the enclosed construction drawings showing the proposed CST and Verizon Wireless installations containing the above described information.

6. If the application is to construct a new mobile service support structure, an explanation as to why the application chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has the responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

The Verizon Wireless search ring is depicted in the enclosed Delorme Map labeled "Verizon Wireless Search Area: Wisconsin Avenue Site", where there are no existing structures of any kind within the defined search area available for collocation by Verizon Wireless. Enclosed in the application materials is a sworn statement from the Verizon Wireless Radio Frequency Engineer assigned to the site attesting to the fact that collocation is not feasible option for this site, as there are no existing structures of any kind which exist within the Verizon Wireless Search Area that could be utilized by Verizon Wireless for a collocation.

ADDITIONAL DISCUSSION

This is a joint application for a proposed new communications tower facility which will be owned by Central States Tower III, LLC ("CST"), a national owner and operator of wireless communications

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infrastructure; and an antenna and equipment installation upon this new communications tower facility by its proposed tenant, Verizon Wireless. It is not uncommon for wireless telecommunications service providers to engage the services of a tower company to construct, own, and operate the infrastructure upon which they desire locate their equipment. In this case, Verizon Wireless needs the site to meet its service needs for the defined search area, and has engaged CST to participate as the tower developer/owner for the project.

As described above, the proposed project is for the construction, installation, and operation of an unmanned wireless tower communications facility upon the property located on 2718 N Meade Street Appleton WI 54913. Parcel ID #: 331402300, 311402400, 311402500. This facility will consist of Verizon Wireless antennas and equipment to be mounted at the 60' centerline of a newly constructed CST owned 80' monopole tower (85' with lightning rod), associated coaxial/hybrid cable runs down the inside of the tower, and outside cabinet platform for equipment and backup power generator which will be housed upon a concrete pad/foundation near the base of the tower, all within a 50' x 50' fenced CST compound area as shown in the enclosed plans.

This Special Use Permit will result in a great benefit for the community, in that it will allow for the continued provision of the highest quality, and most technologically advanced wireless communication services to the nearby residents and visitor populations of the City of Appleton. Besides the services which will be provided by Verizon Wireless, the tower facility has been designed so it will be available for at least two (2) other comparable antenna and equipment installations, and shall conform to all applicable ANSI/TIA 222-G, FCC, and FAA regulations and standards governing such facilities. Multiple company collocations on its infrastructure is the core of CST's business, and CST actively markets its portfolio of tower sites for collocation to all communication users nationwide and will do so for this site as well. In this regard, it is CST's experience that the typical wireless communication service provider would require similar or somewhat higher mounting heights than what Verizon Wireless is proposing with this application, and with this in mind CST wants to ensure that the proposed tower structure is designed to remain as marketable as possible. Therefore, it is seeking the approval of a somewhat taller overall tower structure (85' AGL), than the mounting height required (60' AGL) by Verizon Wireless at this location. CST feels that this incremental additional height will both increase the viability of this location for other potential future users needs in this area, while at the same time decreasing the future chances that an additional tower location would need to be sought in this vicinity, both accomplished without materially increasing any potential impact(s) to the surrounding area due to the slight increase in height the proposed taller tower would bring.

The proposed facility will not require any public participation, or result in any public cost for public facilities and services which would be detrimental to the economic welfare of the community. In fact, the wireless communication services offered by Verizon Wireless are desired by both businesses and individuals, and will be an economic asset to the community. The enhanced E-911 services provided by facilities such as these will also assist in the protection of the public health, safety, and welfare of the community.

The equipment will operate continuously at this unmanned facility and will require no additional parking or facilities for employees. Verizon Wireless' cell site technicians will visit the site periodically, typically a couple hours once per month, for the testing and monitoring of the maintenance and security of its equipment. CST personnel will also visit the site periodically to monitor the maintenance and security of the facility. The facility will not generate any substantial

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traffic, and besides the new tower structure, the remainder of the equipment has a minimal visual impact and generates very little noise.

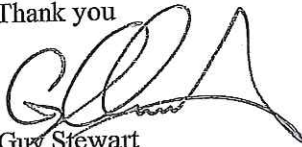
This site is located upon a property in the C-2 General Commercial Zoning District within an established commercial corridor along W. Wisconsin Avenue, and has been positioned upon the underlying parcel to best conform with the current and potential future use(s) of the property. The location of the proposed tower upon the property is setback from the nearest property line by approximately 29', a distance that is less than the height of the proposed tower structure. However, enclosed please find a stamped engineering letter from Sabre Industries Towers and Poles, CST's tower manufacturer, ensuring that the tower will be designed to collapse within the subject property in the event of structural failure. A landscaping buffer will also be installed around the perimeter of the compound to assist in minimizing any potential impacts to the adjoining properties and nearby view sheds.

Besides the six (6) application requirements defined by Wis. Stat. Sect. 66.0404(2)(b), I have also enclosed a copy of a FCC TOWAIR report for the proposed tower at this location and a check made payable to the City of Appleton in the amount of \$450.00 for the applicable application fee.

I believe the above information satisfies the applicable application requirements as defined by the City of Appleton Zoning Ordinance and as preempted by Wis. Stat. Sect. 66.0404; and is ready to be scheduled for consideration by the City of Appleton Planning Commission. I look forward to the public hearing for this request, and will be present at the meeting to address any remaining questions that the commission or members of the public may have regarding the application and proposed use of the site.

Should you have any additional information needs or questions regarding the application, the enclosed materials, or the proposed use of the site, please contact me directly at (715) 340-2123 or by email at guystewart@charter.net.

Thank you



Guy Stewart
Real Estate Acquisition & Development, LLC
3703 North Point Dr.
Stevens Point WI 54481

Enclosures:

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66.0404 Mobile tower siting regulations. (1) DEFINITIONS. In this section:

(a) “Antenna” means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

(b) “Application” means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.

(c) “Building permit” means a permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision’s building code.

(d) “Class 1 collocation” means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

(e) “Class 2 collocation” means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

(f) “Collocation” means class 1 or class 2 collocation or both.

(g) “Distributed antenna system” means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

(h) “Equipment compound” means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

(i) “Existing structure” means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

(j) “Fall zone” means the area over which a mobile support structure is designed to collapse.

(k) “Mobile service” has the meaning given in 47 USC 153 (33).

(L) “Mobile service facility” means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

(m) “Mobile service provider” means a person who provides mobile service.

(n) “Mobile service support structure” means a freestanding structure that is designed to support a mobile service facility.

(o) “Permit” means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

1. A class 1 collocation.
2. A class 2 collocation.
3. The construction of a mobile service support structure.

(p) “Political subdivision” means a city, village, town, or county.

(q) “Public utility” has the meaning given in s. 196.01 (5).

(r) “Search ring” means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

(s) “Substantial modification” means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.

3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.

4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

(t) “Support structure” means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

(u) “Utility pole” means a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01 (1d); public utility, as defined in s. 196.01 (5); telecommunications utility, as defined in s. 196.01 (10); political subdivision; or cooperative association organized under ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in s. 182.017 (1g) (cq); for video service, as defined in s. 66.0420 (2) (y); for electricity; or to provide light.

(2) NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATION OF FACILITIES AND SUPPORT STRUCTURES. (a) Subject to the provisions and limitations of this section, a political subdivision may enact a zoning ordinance under s. 59.69, 60.61, or 62.23 to regulate any of the following activities:

1. The siting and construction of a new mobile service support structure and facilities.

2. With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities.

(b) If a political subdivision regulates an activity described under par. (a), the regulation shall prescribe the application process which a person must complete to engage in the siting, construction, or modification activities described in par. (a). The application shall be in writing and shall contain all of the following information:

1. The name and business address of, and the contact individual for, the applicant.
2. The location of the proposed or affected support structure.
3. The location of the proposed mobile service facility.
4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

(c) If an applicant submits to a political subdivision an application for a permit to engage in an activity described under par. (a), which contains all of the information required under par. (b), the political subdivision shall consider the application complete. If the political subdivision does not believe that the application is complete, the political subdivision shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An appli-

cant may resubmit an application as often as necessary until it is complete.

(d) Within 90 days of its receipt of a complete application, a political subdivision shall complete all of the following or the applicant may consider the application approved, except that the applicant and the political subdivision may agree in writing to an extension of the 90 day period:

1. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

2. Make a final decision whether to approve or disapprove the application.

3. Notify the applicant, in writing, of its final decision.

4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(e) A political subdivision may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under par. (b) 6.

(f) A party who is aggrieved by the final decision of a political subdivision under par. (d) 2. may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.

(g) If an applicant provides a political subdivision with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the political subdivision provides the applicant with substantial evidence that the engineering certification is flawed.

(h) A political subdivision may regulate the activities described under par. (a) only as provided in this section.

(i) If a political subdivision has in effect on July 2, 2013, an ordinance that applies to the activities described under par. (a) and the ordinance is inconsistent with this section, the ordinance does not apply to, and may not be enforced against, the activity.

(3) COLLOCATION ON EXISTING SUPPORT STRUCTURES. (a) 1. A class 2 collocation is a permitted use under ss. 59.69, 60.61, and 62.23.

2. If a political subdivision has in effect on July 2, 2013, an ordinance that applies to a class 2 collocation and the ordinance is inconsistent with this section, the ordinance does not apply to, and may not be enforced against, the class 2 collocation.

3. A political subdivision may regulate a class 2 collocation only as provided in this section.

4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.

(b) If an applicant submits to a political subdivision an application for a permit to engage in a class 2 collocation, the application shall contain all of the information required under sub. (2) (b) 1. to 3., in which case the political subdivision shall consider the application complete. If any of the required information is not in the application, the political subdivision shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

(c) Within 45 days of its receipt of a complete application, a political subdivision shall complete all of the following or the applicant may consider the application approved, except that the applicant and the political subdivision may agree in writing to an extension of the 45 day period:

1. Make a final decision whether to approve or disapprove the application.

2. Notify the applicant, in writing, of its final decision.

3. If the application is approved, issue the applicant the relevant permit.

4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

(d) A party who is aggrieved by the final decision of a political subdivision under par. (c) 1. may bring an action in the circuit court of the county in which the proposed activity, which is the subject of the application, is to be located.

(4) LIMITATIONS. With regard to an activity described in sub. (2) (a) or a class 2 collocation, a political subdivision may not do any of the following:

- (a) Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.

- (b) Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.

- (c) Enact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the political subdivision.

- (d) Charge a mobile radio service provider a fee in excess of one of the following amounts:

1. For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by a political subdivision for a building permit for any other type of commercial development or land use development.

2. For a permit for an activity described in sub. (2) (a), \$3,000.

- (e) Charge a mobile radio service provider any recurring fee for an activity described in sub. (2) (a) or a class 2 collocation.

- (f) Permit 3rd party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.

- (g) Disapprove an application to conduct an activity described under sub. (2) (a) based solely on aesthetic concerns.

- (gm) Disapprove an application to conduct a class 2 collocation on aesthetic concerns.

- (h) Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.

- (i) Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. There is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this paragraph.

- (j) Prohibit the placement of emergency power systems.

- (k) Require that a mobile service support structure be placed on property owned by the political subdivision.

- (L) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.

- (m) Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.

- (n) Limit the duration of any permit that is granted.

- (o) Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.

66.0404 MUNICIPAL LAW

Updated 13–14 Wis. Stats. 48

(p) Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.

(q) Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.

(r) Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.

(s) Consider an activity a substantial modification under sub. (1) (s) 1. or 2. if a greater height is necessary to avoid interference with an existing antenna.

(t) Consider an activity a substantial modification under sub. (1) (s) 3. if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.

(u) Limit the height of a mobile service support structure to under 200 feet.

(v) Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.

(w) Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.

(5) **APPLICABILITY.** If a county enacts an ordinance as described under sub. (2) the ordinance applies only in the unincorporated parts of the county, except that if a town enacts an ordinance as described under sub. (2) after a county has so acted, the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

History: 2013 a. 20, 173.

66.0405 Removal of rubbish. Cities, villages and towns may remove ashes, garbage, and rubbish from such classes of places in the city, village or town as the board or council directs. The removal may be from all of the places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property. The cost of removal may be funded by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village or town. If a city, village or town contracts for ash, garbage or rubbish removal service, it may contract with one or more service providers.

History: 1993 a. 246; 1999 a. 150 s. 119; Stats. 1999 s. 66.0405.

66.0406 Radio broadcast service facility regulations.

(1) **DEFINITIONS.** In this section:

(a) "Political subdivision" means any city, village, town, or county.

(b) "Radio broadcast services" means the regular provision of a commercial or noncommercial service involving the transmission, emission, or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public.

(c) "Radio broadcast service facilities" means commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services.

(2) **LIMITATIONS ON LOCAL REGULATION.** Beginning on May 1, 2013, if a political subdivision enacts an ordinance, adopts a resolution, or takes any other action that affects the placement, construction, or modification of radio broadcast service facilities, the

ordinance, resolution, or other action may not take effect unless all of the following apply:

(a) The ordinance, resolution, or other action has a reasonable and clearly defined public health or safety objective, and reflects the minimum practical regulation that is necessary to accomplish that objective.

(b) The ordinance, resolution, or other action reasonably accommodates radio broadcast services and does not prohibit, or have the effect of prohibiting, the provision of such services in the political subdivision.

(3) **CONTINUED APPLICATION OF EXISTING REGULATIONS.** If a political subdivision has in effect on May 1, 2013, an ordinance or resolution that is inconsistent with the requirements that are specified in sub. (2) for an ordinance, resolution, or other action to take effect, the existing ordinance or resolution does not apply, and may not be enforced, to the extent that it is inconsistent with the requirements that are specified in sub. (2).

(4) **DENIAL OF PLACEMENT, CONSTRUCTION, OR MODIFICATION OF FACILITIES.** If a political subdivision denies a request by any person to place, construct, or modify radio broadcast service facilities in the political subdivision, the denial may be based only on the political subdivision's public health or safety concerns. The political subdivision must provide the requester with a written denial of the requester's request, and the political subdivision must provide the requester with substantial written evidence which supports the reasons for the political subdivision's action.

History: 2013 a. 20; 2013 a. 173 s. 33.

66.0407 Noxious weeds. (1) In this section:

(a) "Destroy" means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.

(b) "Noxious weed" means Canada thistle, leafy spurge, field bindweed, any weed designated as a noxious weed by the department of natural resources by rule, and any other weed the governing body of any municipality or the county board of any county by ordinance or resolution declares to be noxious within its respective boundaries.

(3) A person owning, occupying or controlling land shall destroy all noxious weeds on the land. The person having immediate charge of any public lands shall destroy all noxious weeds on the lands. The highway patrolman on all federal, state or county trunk highways shall destroy all noxious weeds on that portion of the highway which that highway patrolman patrols. The town board is responsible for the destruction of all noxious weeds on the town highways.

(4) The chairperson of each town, the president of each village and the mayor or manager of each city may annually on or before May 15 publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds, as defined in this section, on lands in the municipality which the person owns, occupies or controls. A town, village or city which has designated as its official newspaper or which uses for its official notices the same newspaper as any other town, village or city may publish the notice under this subsection in combination with the other town, village or city.

(5) This section does not apply to Canada thistle or annual noxious weeds that are located on land that the department of natural resources owns, occupies or controls and that is maintained in whole or in part as habitat for wild birds by the department of natural resources.

History: 1975 c. 394 s. 12; 1975 c. 421; Stats. 1975 s. 66.96; 1983 a. 112, 189; 1989 a. 56 s. 258; 1991 a. 39, 316; 1997 a. 287; 1999 a. 150 ss. 617 to 619; Stats. 1999 s. 66.0407; 2009 a. 55.

Proposed Kesting Court Cell Tower

We, the undersigned people, ask that the proposed 85 foot cell tower to be erected by Central States Tower III & Verizon Wireless on the southeast portion of a property located at 2718 N Meade Street in Appleton (tax parcel 311402500) be moved to an alternative site in the area that would be more appropriate and safer for the residents of the adjacent neighborhood

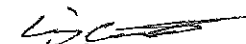



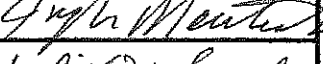
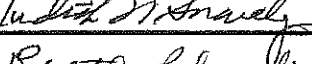
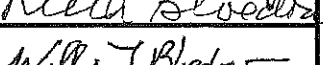
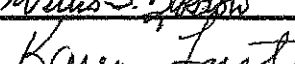
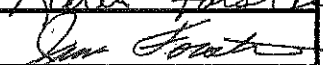




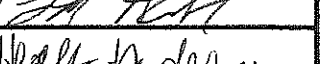
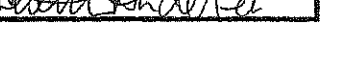

We are concerned that the proposed site, which adjoins Kesting Court to the east, is immediately adjacent to a residential neighborhood where young families with small children live.

We are concerned about the effects of the proposed tower location on neighborhood property values.

We are very concerned about the unknown risks to residents' health, especially for pregnant women and small children posed by high exposure to radiofrequency energy.

We are concerned that, in the event of a mechanical failure, all or some parts of the tower structure could actually fall on neighboring homes (the closest home is 38 feet from the actual center of the proposed site)

We believe that there are alternative sites in the area that would be safer and more appropriate for a proposed cell tower and therefore request that an alternative site analysis be done to find the safest and most appropriate site for this tower.

| Name | Address | Phone Number | Signature |
|-------------------|---------------------|----------------|---|
| Craig Cogges | 2700 Kesting Ct | 920-427-3487 |  |
| Ann Behrke | 2624 Kesting Ct | 920-739-1090 |  |
| Joanne Schwabe | 2608 Kesting Ct | 920-731-9109 |  |
| Chris Turner | 2600 Kesting Ct | 864-266-7019 |  |
| Joe MARETECH | 2512 Kesting Ct | 920 739 8014 |  |
| Judy Dravely | 2520 Kesting Ct | 920-749-9303 |  |
| Rita Bloodor | 820 E. Pershing | 920-739-2275 |  |
| Willis J. Bloodor | 820 E. Pershing | 920-739-2275 |  |
| Karen Foster | 810 E. Pershing | 920-470-3337 |  |
| Jan Foust | 810 E Pershing St | 920 470 3330 |  |
| Lee VuLee | 800 E. Pershing St. | 920-202-3795 |  |
| Thue Lee | 800 E. Pershing St. | 920-202-3795 |  |
| Chase Beschta | 2516 N Meade St | 920-562-1162 |  |
| Kelly Beschta | 2516 N. Meade St. | (920) 233-5215 |  |
| Lloyd Anderson | 2524 N. Meade St. | (920) 284-6123 |  |
| Heather Anderson | 2524 N. Meade St. | 920-284-6123 |  |

Proposed Kesting Court Cell Tower

We, the undersigned people, ask that the proposed 85 foot cell tower to be erected by Central States Tower III & Verizon Wireless on the southeast portion of a property located at 2718 N Meade Street in Appleton (tax parcel 311402500) be moved to an alternative site in the area that would be more appropriate and safer for the residents of the adjacent neighborhood

We are concerned that the proposed site, which adjoins Kesting Court to the east, is immediately adjacent to a residential neighborhood where young families with small children live.

We are concerned about the effects of the proposed tower location on neighborhood property values.

We are very concerned about the unknown risks to residents' health, especially for pregnant women and small children posed by high exposure to radiofrequency energy.

We are concerned that, in the event of a mechanical failure, all or some parts of the tower structure could actually fall on neighboring homes (the closest home is 38 feet from the actual center of the proposed site)

We believe that there are alternative sites in the area that would be safer and more appropriate for a proposed cell tower and therefore request that an alternative site analysis be done to find the safest and most appropriate site for this tower.

| Name | Address | Phone Number | Signature |
|---------------------|--------------------|--------------|-------------|
| HUNTER JANTZ | 2400 N Meade | 920-288-4462 | [Signature] |
| Ida Jones | 2624 N. Meade | 920-739-3042 | [Signature] |
| Jeanne Becker | 2703 Kesting Ct. | 920-991-9718 | [Signature] |
| Sue Van Vorst | 2102 S Kesting Ct. | 920-749-1895 | [Signature] |
| Joe Van Vorst | 2625 Kesting Ct. | " | [Signature] |
| Brian Hill | 2617 Kesting | 920-246-6259 | [Signature] |
| Nichelle VerBruggen | 2609 Kesting Ct. | 920-213-2533 | [Signature] |
| DAVID BRINKMAN | 2616 KESTING CT | 920-450-5734 | [Signature] |
| Sara Brinkman | 2616 Kesting Ct | 920-739-6592 | [Signature] |
| BT doet minor | | | |
| John M. Hill | 2701 Lillian Ct | 414-430-7866 | [Signature] |
| Patie Hladick | 2607 Lillian Ct. | 920-562-4585 | [Signature] |
| Trevor Willico | 830 E Pershing St | 920-371-4792 | [Signature] |
| SAM MURPHY | 2528 LILLIAN CT | 920-450-4658 | [Signature] |
| Lisa Murphy | 2528 Lillian Ct | 920-450-4659 | [Signature] |
| Matt Prochaska | 2612 Lillian Ct | 920-327-8533 | [Signature] |
| Marsha Prochaska | 2612 Lillian Ct | 920-378-4072 | [Signature] |
| Delany Prochaska | 2713 Kesting Ct | 920-716-1808 | [Signature] |
| Ryan Ussers | 2713 Kesting Ct | 920-716-2405 | [Signature] |
| Ucky Prochaska | 2708 Kesting Ct | 920-993-0952 | [Signature] |
| Robert Prochaska | 2708 Kesting Ct | 920-993-0952 | [Signature] |

Proposed Kesting Court Cell Tower

We, the undersigned people, ask that the proposed 85 foot cell tower to be erected by Central States Tower III & Verizon Wireless on the southeast portion of a property located at 2718 N Meade Street in Appleton (tax parcel 311402500) be moved to an alternative site in the area that would be more appropriate and safer for the residents of the adjacent neighborhood

We are concerned that the proposed site, which adjoins Kesting Court to the east, is immediately adjacent to a residential neighborhood where young families with small children live.

We are concerned about the effects of the proposed tower location on neighborhood property values.

We are very concerned about the unknown risks to residents' health, especially for pregnant women and small children posed by high exposure to radiofrequency energy.

We are concerned that, in the event of a mechanical failure, all or some parts of the tower structure could actually fall on neighboring homes (the closest home is 38 feet from the actual center of the proposed site)

We believe that there are alternative sites in the area that would be safer and more appropriate for a proposed cell tower and therefore request that an alternative site analysis be done to find the safest and most appropriate site for this tower.

[illegible]

West/Northwest view



proposed
tower

Visser's landscaping on
north side of their house

West/Northwest view



proposed
tower

From Visser's' front lawn.

North View



From Visser's' front lawn

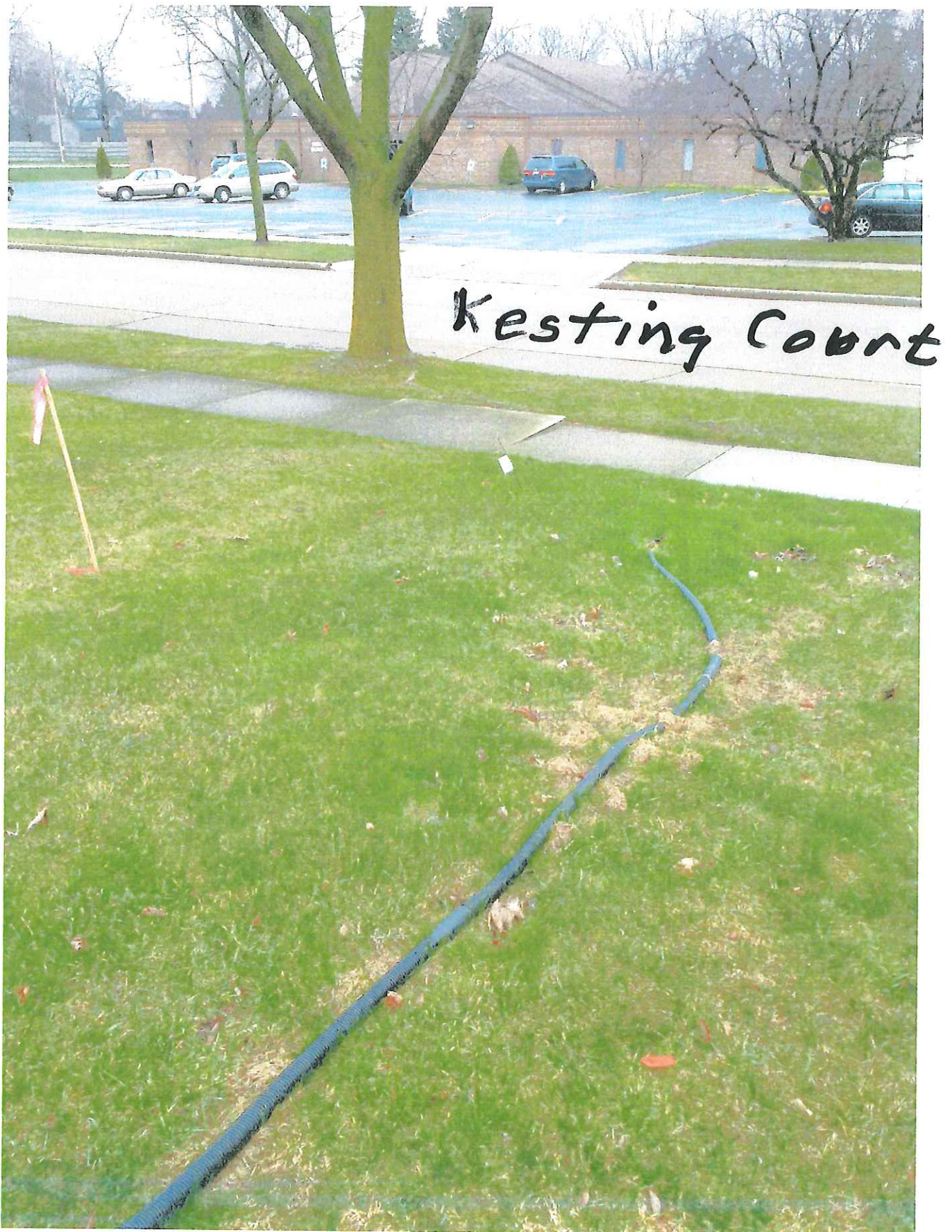
North View



From Vißers front lawn

5/6/16, 7:59 PM

East View



Kesting Court



"...meeting community needs...enhancing quality of life."

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

TO: Finance Committee

FROM: Dean R. Gazza, Director of Parks, Recreation and Facilities Management

DATE: 7/6/2016

RE: Action Item: Award contract to Zimmerman Architectural Studios for design and engineering services for the Fox Cities Exhibition Center for a contract of \$1,819,114 and a 10% design contingency for a contract not to exceed \$2,001,025.

On June 7, 2016, Request for proposals were received from six architectural firms for design and engineering services of the Fox Cities Exhibition Center. Three of those firms were subsequently interviewed on June 23, 2016. After the interviews, Zimmerman Architectural Studios was unanimously selected by the review team to be awarded the contract. Zimmerman has compiled a team that includes Fentress Architects who is a well-known designer of exhibition space.

Request for proposals were evaluated for relevant experience, project success, project team, project understanding/study methodology, project schedule and cost. It was important that the firms clearly demonstrated experience in the design of exhibition centers and had the ability to provide fast-track project delivery.

More specifically, Zimmerman Architectural Studios and Fentress Architects demonstrated an understanding and approach to the project that demonstrated their depth of experience and knowledge in exhibition center design and construction. In addition, their project team, comprised of well experienced professionals, who spoke about not only their abilities, but their understanding of how a well-designed Exhibition Center can make a region a destination of choice. Overall, Zimmerman unanimously scored the highest by our review team.

The proposals fees and scoring are as follows:

| Architect | Score* | Fee |
|--------------------|--------|----------------|
| Engberg Anderson | 62.2 | \$1,495,144 |
| Hoffman/Betsch | 75.4 | \$1,410,410 |
| Kahler Slater | 67.0 | \$1,148,630 |
| McMahon | 83.6 | \$1,794,764 |
| Strang | 65.6 | Fee Incomplete |
| Zimmerman/Fentress | 86.8 | \$1,819,114 |

After careful review, our team unanimously recommends awarding a contract to Zimmerman Architectural Studios for \$1,819,114 and a design contingency of 10% for a contract not to exceed \$2,001,025. Note that both reimbursable and contingency expenses are only utilized as needed and allowed per contract and authorization by the project manager. Please feel free to contact me at 832-5572 with any questions, or by email at dean.gazza@appleton.org.



"...meeting community needs...enhancing quality of life."

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
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(920) 832-5572 FAX (920) 993-3103
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TO: Finance Committee

FROM: Dean R. Gazza, Director of Parks, Recreation and Facilities Management

DATE: 7/6/2016

RE: Action Item: Award contract to Miron Construction for Construction Manager at Risk services for the Fox Cities Exhibition Center for a contract of \$589,315 and \$25,000 for reimbursable expenses for a contract not to exceed \$614,315.

On June 7, 2016, request for proposals were received from three construction management/construction firms to provide pre-construction, construction, and post construction services for the Fox Cities Exhibition Center. Two of those firms were subsequently interviewed on June 23, 2016. After the interviews, Miron Construction was unanimously selected by the review team to be awarded the contract.

Construction management at risk delivery method is used when a project has a tight schedule. The construction manager (CM) will serve as an advisor in both the pre and post construction phases. During the pre-construction phase, the CM will provide constructability reviews and offer suggestions to improve schedule and reduce cost. During construction, the CM will act in a similar role as a general contractor, but in this case, the CM will only self-perform work if they are the lowest responsible bidder. Specialty contractors will bid their portion of the work. The CM may choose to bid on some of this work and may or may not be awarded the work based on if they were the lowest responsible bidder. Pre-construction services will assist in ensuring all contractors' work is completed and obtaining all final documentation such as as-built drawings, warranties and operations manuals.

Request for proposals were evaluated for relevant experience, project success, project team, project understanding/study methodology, project schedule and cost. It was important that the firms clearly demonstrated experience in the construction of exhibition centers and had the ability to provide fast-track project delivery.

The proposals fees and scoring were as follows:

| CM | Score | Pre-Construction Fee | Construction Fee* | Post Construction Fee | General Conditions Fee | Other Fee |
|------------|-------|----------------------|-------------------|-----------------------|------------------------|-----------|
| Boldt | 87.2 | \$28,000 | 0.5%/\$125,000 | No Charge | \$663,760 | |
| C.D. Smith | 56.2 | \$50,000 | 2.45%/\$612,500 | No Charge | \$993,981 | |
| Miron | 87.4 | \$25,000 | 0%/\$0 | No Charge | \$539,315 | \$25,000 |

(*) The estimated budget for construction is \$25,000,000.

After careful review, our team unanimously recommends awarding a contract to Miron Construction for a contract of \$589,315 and \$25,000 for reimbursable expenses for a contract not to exceed \$614,315. Note that both reimbursable expenses are only utilized as needed and allowed per contract and authorization by the project manager. In addition, note that under this construction delivery method, the City of Appleton, will pay for the cost of performance bonds which may be reimbursable to Miron Construction. Those costs are not included until bidding is performed and the cost of work is known.

Please feel free to contact me at 832-5572 with any questions, or by email at dean.gazza@appleton.org.