City of Appleton

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

Meeting Agenda - Final

Community & Economic Development Committee

Wednesday, September 21, 2016 | **6:30 PM** | **Council Chambers, 6th Floor**

SPECIAL

1. Call meeting to order

2. Roll call of membership

3. Approval of minutes from previous meeting

16-1466 CEDC Minutes from 9-14-16

Attachments: CEDC Minutes 9-14-16.pdf

4. Public Hearings/Appearances

5. Action Items

16-1312 Request to approve the Alexander Company & Iconica Development Agreement for Eagle Point for an approximate 8.1 acre site at 935 E. John Street in Tax Increment Financing District No. 8

Attachments: Memo on Alexander Co Iconica Development Agreement for E John Street.pdf

Eagle Point Development Agreement FINAL 9-16-16.pdf

TIF8.pdf

16-1467 Request to approve the offer to purchase of 210 W. Edgewood Drive in the Town of Grand Chute and authorize the budget adjustment from the Industrial Park Land Fund for the associated acquisition and due diligence costs not to exceed $610,000.00

Attachments: Memo to CEDC & Finance on Purchase of 210 W Edgewood Dr.pdf

210EdgewoodAirPhoto.pdf

210EdgewoodMap.pdf

Future Land Use Revise6_16.pdf

210 W Edgewood Accepted Offer.pdf

16-1468 The Community and Economic Development Committee may go into closed session according to State Statute 19.85(1)(e) for the purpose of deliberating or discussing the purchasing of property on the northwest side of the City of Appleton and then reconvene into open session

6. Information Items

7. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Any questions about items on this meeting are to be directed to Karen Harkness, Director, Community and Economic Development Department at 920-832-6468.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.

City of Appleton

100 North Appleton Street
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Meeting Minutes - Final
Community & Economic Development Committee

Wednesday, September 14, 2016 | **5:00 PM** | **Council Chambers, 6th Floor**

1. Call meeting to order

Meeting called to order at 5:01 p.m.

2. Roll call of membership

Present: 3 - Coenen, Reed and Siebers

Excused: 2 - Baranowski and Mann

Others present:
Alderperson Kyle Lobner, District #13
Sarah Van Buren, East Central Wisconsin Regional Planning Commission
Manny Vasquez, Fox Cities Regional Partnership
Mark Rohloff, City of Oshkosh

3. Approval of minutes from previous meeting

16-1375 CEDC Minutes from 8-24-16

Attachments: CEDC Minutes 8-24-16.pdf

Siebers moved, seconded by Reed, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 3 - Coenen, Reed and Siebers

Excused: 2 - Baranowski and Mann

4. Public Hearings/Appearances

16-1376 Community Development Block Grant (CDBG) Notice of Funding Available and Community Needs for the 2017 Program Year (4/1/17 - 3/31/18) (Associated with Action Item #16-1377)

Attachments: Funding Available Community Needs - Public Hearing Notice.pdf

This public hearing was held, and no one spoke on the item.

16-1378 Presentation of Initiative 41 Program by Sarah Van Buren, East Central Wisconsin Regional Planning Commission; Manny Vasquez, Fox Cities Regional Partnership; and Mark Rohloff, City of Oshkosh. Here are links to the Action Plan and Diversification Strategy as well as the PowerPoint presentation:
<http://www.ecwrpc.org/wp-content/uploads/2016/06/Charrette-Report-3-Collaborative-Action-Plan.pdf>
<http://www.ecwrpc.org/wp-content/uploads/2016/06/Charrette-Report-2-East-Central-Industry-Diversification-Strategy.pdf>
<https://www.wetransfer.com/downloads/94077eb01247ce94b397f69dd2a7f35920160913135459/b6ca111f9778770eb5b0d8724d6f2f5820160913135459/c2e70a>

Attachments: Initiative-41-Brochure.pdf
Initiative 41 PowerPoint 2013 - City of Appleton - September 14.pdf

This Appearance was presented.

5. Action Items

16-1377 City Program Funding Approval and City Proposals for 2017 CDBG Funding

Attachments: Dept Proposals CEDC memo.pdf

Siebers moved, seconded by Reed, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 3 - Coenen, Reed and Siebers

Excused: 2 - Baranowski and Mann

6. Information Items

16-1379 Hotel Room Tax Commission Draft By-Laws

Attachments: Memo on Hotel Room Tax Commission Draft By-Laws.pdf
8-8-2016 Fox Cities Tax Commission Bylaws DRAFT.pdf

This Presentation was presented.

16-1380 Downtown Appleton Business Improvement District (BID) 2017 Operating Plan

Attachments: 2017 BID Operational Plan.pdf
2015 BID Annual Report.pdf
2015 Year End BID Communication Report.pdf
2015 Year End BID Financial Statements Report.pdf

This Presentation was presented.

7. Adjournment

Siebers moved, seconded by Reed, that the meeting be adjourned at 6:00 p.m. Roll Call. Motion carried by the following vote:

Aye: 3 - Coenen, Reed and Siebers

Excused: 2 - Baranowski and Mann

M E M O R A N D U M

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

TO: Appleton Redevelopment Authority and CEDC

FROM: Karen Harkness, Director of Community & Economic Development

DATE: September 16, 2016

RE: Alexander Company & Iconica Development Agreement for Eagle Point

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This Development Agreement supports the Developer's purchase of 935 East John Street for $850,000 and construction of a senior living facility of approximately 99 units with a projected assessed value of $15,700,000. Phase II would be comprised of single-family homes or condominiums with a projected assessed value of $2,100,000. The projected assessed value of Phases 1 & 2 combined is expected to be $17,800,000.

The Developer shall use their best efforts to construct a final phase of the project as market conditions permit, which may include, but not be limited to, market rate, senior, single-family, student housing, mixed-use or commercial components, by December 31, 2019.

The Developer will construct a public walkway and shall execute an easement granting the City and the general public access to the walkway.

The City has determined that development of this project at the former Foremost Dairy Plant will spur economic development, expand the City's tax base, and create new jobs. Pursuant to Section 66.1105 Wisconsin Statutes (the "Tax Increment Law"), the City has further determined that financial assistance for this project's cost is covered under the Tax Incremental Law.

The City investment will be the lesser of: 1) $4,267,500 or 2) Twenty-five percent (25%) of the tax increment value of Phases 1 & 2.

Please contact Karen Harkness, Director of Community and Economic Development at 920-832-6408 or email Karen.harkness@appleton.org with any questions.

TAX INCREMENT DISTRICT NO. 8
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is dated as of the _____ day of _____, 2016 by and between EP Development, Inc., a Wisconsin corporation (the "Developer"), the CITY OF APPLETON, a Wisconsin municipal corporation (the "City") and the REDEVELOPMENT AUTHORITY OF THE CITY OF APPLETON (the "Authority").

RECITALS

City, Developer, and Authority acknowledge the following:

A. Developer owns or will acquire the parcel of real property located in the City and described on Exhibit A, attached hereto (the "Property"). The Property is comprised of a former industrial site that requires significant infrastructure improvements prior to development.

B. In 2009 the City created Tax Increment District No. 8 (the "District") pursuant to Section 66.1105, Wis. Stat. (the "Tax Increment Law") and approved a plan for the redevelopment of the District (the "District Plan").

C. Subject to obtaining the financial assistance set forth herein, Developer intends to undertake a redevelopment of the Property that will increase the value of the Property and provide other tangible benefits to the surrounding neighborhoods and to the City as a whole, consistent with the District Plan for the District.

D. The City and Authority desire to encourage economic development including the elimination of slum and blight, expand the City's tax base, and create new jobs within the City. The City and Authority find that the redevelopment of the Property and the fulfillment, generally, of the terms and conditions of this Agreement are in the vital and best interests of the City and Authority and its residents and serve a public purpose in accordance with state and local law.

E. The City has determined that the amount of financial assistance to be provided in this Agreement is the amount necessary to induce redevelopment of the Property, which would not otherwise proceed without the financial assistance set forth in this Agreement.

F. The Authority, pursuant to the action dated _____, has approved this Agreement and authorized the execution of the Agreement by the proper Authority officers on the Authority's behalf.

G. The City, pursuant to Common Council action dated _____, has approved this Agreement and authorized the execution of the Agreement by the proper City officers on the City's behalf.

H. The Developer has approved this Agreement and authorized the execution of this Agreement by the Developer's authorized agents on the Developer's behalf.

ARTICLE 1
PURPOSES - DEFINITIONS

1.1 Purpose of Agreement. The parties have agreed upon a general plan for redevelopment of the Property. The purpose of this Agreement is to formalize and record the understandings and undertakings of the parties and to provide a framework within which the redevelopment of the Property will take place.

1.2 Definitions. The terms listed below shall be defined for the purposes of this Agreement as follows. All terms that are capitalized but not defined in this Agreement and that are defined under the Tax Increment Law shall have the definitions assigned to such terms by the Tax Increment Law.

1.2.1 **Authority** means the Redevelopment Authority of the City of Appleton.

1.2.2 **City** means the City of Appleton, a Wisconsin Municipal Corporation.

1.2.3 **Contribution** means the Tax Increment Revenue payment made to the Developer by the City pursuant to Section 5.4 upon Substantial Completion of Phase I of the Project as depicted on Exhibit C. The Contribution is deemed incurred and payable pursuant to Section 5.4 upon Substantial Completion of Phase I of the Project, notwithstanding that portions of the Project specified in Articles 3, 4 and 5 will be completed following Substantial Completion of Phase I of the Project. "Substantial Completion" means completion of Phase I of the Project evidenced by: (a) issuance by the Project architect of a certificate of substantial completion for the building and improvements, including all exterior building work and base mechanical and HVAC systems; and (b) issuance by the City of a certificate of occupancy.

1.2.4 **Development Area** means the sum of all property depicted in Exhibit B, including the Property and certain adjacent public property and rights of way, and constitutes the total boundaries of the Project.

1.2.5 **Development Plan** means the Project as generally shown on Exhibit C as improved by the site improvements further described by this Agreement.

1.2.6 **Developer** means EP Development, Inc., a Wisconsin corporation.

1.2.7 **Project** means the improvements and uses anticipated by the Development Plan and this Agreement for the Development Area, including each Phase of the Project as depicted on Exhibit C and described in Sections 3.3 and 3.4.

1.2.8 **Property Base Value** means the equalized value of the Property described on Exhibit A upon the creation of TID #8 in 2009 as certified by the State, which was $730,000.

1.2.9 **Tax Increment Value** means the equalized value above the Property Base Value established for the Property as determined by the City assessor.

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

1.2.11 **Zoning Code** means Chapter 23 of the Code of Ordinances of the City of Appleton.

ARTICLE 2
DESCRIPTION OF PROJECT

2.1 Development Area. The Development Area depicted on Exhibit B will be redeveloped and improved with site improvements as generally depicted on the attached Exhibit C and described in Sections 3.3 and 3.4.

2.2 The Development Area is zoned R-3 and the Project shall be consistent with that zoning designation under the Zoning Code.

2.3 No basement shall be installed in the filled raceway area identified on Exhibit D.

2.4 The following is a list of known development constraints; however, neither the City nor the Authority guarantee this is a comprehensive list:

2.4.1 There is a fence encroaching on the "Development Area" as indicated on the ALTA Survey prepared by Thomas M. Kromm for the Authority, dated August 2012, and provided by the City to the Developer (the "ALTA Survey"), Item 9a.

2.4.2 There is a section of concrete, asphalt and guardrail along the northern Property boundary (ALTA Survey, Item 9i), which Developer shall remove in conjunction with completion of Phase I of the Project.

2.4.3 The Fox River Navigational Authority has indicated its willingness to negotiate lease terms for its strip of land along the eastern boundary of the Property. The Developer may incorporate redevelopment of the Fox River Navigational Authority property in conjunction with the Development Area.

2.4.4 A monitoring well is located on the Property as indicated on the ALTA Survey, Item 22, and shall remain in place so long as required by the Wisconsin Department of Natural Resources.

2.5 Emergency access to the river south of the dam by the City or other authorized governmental or quasi government or judicial entities shall be allowed.

ARTICLE 3
UNDERTAKINGS OF THE DEVELOPER

The Developer agrees that it shall:

3.1 Initiate, or cause to be initiated by third parties, the Project and complete the same in accordance with the Zoning Code and all other applicable City building codes, fire codes, ordinances and regulations. All Project costs expended by Developer or its affiliates or successors in ownership of any portion of the Property, after the November 18, 2015 Authority action, including costs incurred before the date of this Agreement, and which are eligible for funding pursuant to §66.1105 of the Wisconsin Statutes, are referred to as "Developer Costs". Developer Costs shall include, without limitation, costs for the acquisition of land, construction of improvements, including hard and soft construction costs, professional fees, architectural fees, construction period interest, civil engineering fees, general contractor fees, infrastructure improvements, environmental remediation costs, demolition, public parking facilities, and the clearing, grading and construction of the Project, and other costs permitted pursuant to Section 66.1105, Wis. Stat.

3.2 Developer shall acquire from the Authority the Property described in Exhibit A for the purchase price of Eight Hundred Fifty Thousand Dollars ($850,000).

3.3 Developer shall construct Phase I of the Project on the portion of the Property shown on Exhibit C, comprised of a senior living facility of approximately ninety-nine (99) dwelling units with a projected assessed value of $15,700,000 upon stabilization. Developer shall construct, or cause to be constructed, Phase II of the Project shown on Exhibit C, comprised of single family homes or

condominiums with a projected assessed value of $2,100,000. The projected assessed value of Phases 1 & 2 combined is expected to be $17,800,000. Developer shall use best efforts to construct the final Phase of the Project as market conditions permit, which may include, but not be limited to, market rate, senior, single-family or student housing, mixed-use or commercial components, by December 31, 2019.

3.4 The City recognizes that in the current economic environment, approval of a tax increment district and approval of a development agreement may be necessary prior to the Developer obtaining financing for the Project. The City has approved the creation and amendment of the District, and will approve this Agreement with the contingency that prior to the City incurring any obligation to the Developer pursuant to the terms of this Agreement, the Developer shall:

3.4.1 Cooperate with the City to facilitate the City's performance under Article 5.

3.4.2 Be responsible for obtaining all required permits.

3.4.3 Be solely responsible for complying with the State of Wisconsin's prevailing wage rates if and only to the extent required under State law.

3.4.4 Meet with and review documentation (but not provide hard or electronic copies) with the City's finance director and Director of Economic Development indicating Developer has financing to complete each phase (such as a term sheet or commitment from a lender) provided, however, such documentation may not be provided until after this Development Agreement has been approved by the City and the Authority but shall be provided prior to the issuance of a building permit for the relevant phase.

3.5 Developer Costs – Walkway Construction. The Developer shall construct or cause the construction of a public walkway on the Property substantially as depicted in the Development Plan and in accordance with Exhibit E, City Trail Development Requirements. The Developer shall execute an easement

granting the City and the general public access to the walkway. The easement shall describe the walkway in language subject to the mutual approval of the City surveyor and the Developer. The easement shall be located in an area substantially like that shown in Exhibit F, Approximate Location of Trail Easement. Maintenance of said walkway shall be governed by the Trail Maintenance and Operating Plan attached as Exhibit G. The Developer, its affiliates or assignees shall be solely responsible for walkway construction which shall be completed as part of Phase I of the Project. Construction of the walkway shall be in lieu of any parkland dedication or parkland impact fees under Section 17-29 of the City ordinances or Wis. Stat. § 66.0617, and the City agrees that no such fees shall be imposed for any Phase of the Project.

3.6 The Developer agrees that the Property shall not be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed ethnic origin or identity, color, gender, religion, marital status, age (except as allowed as part of a senior housing development), handicap, or national origin and that construction, redevelopment, improvement, and operation of the Project shall be in compliance with all applicable laws, ordinances and regulations relating to any of the foregoing.

ARTICLE 4
UNDERTAKINGS OF THE AUTHORITY

4.1 The Authority shall convey the Property, by warranty deed, to the Developer on a date mutually agreed by the Authority and the Developer.

4.2 Developer shall pay the Authority Eight Hundred Fifty Thousand Dollars ($850,000) for the Property. The Developer shall use commercially reasonable efforts to construct improvements on the Property to reach an assessed value of Five Million Dollars ($5,000,000) by January 1, 2019, to assist the Authority and the City in meeting the Authority's and the City's obligations under Wisconsin Economic Development Corporation (WEDC) Brownfields Grant Contract #20975. The City and the Authority

agree that if, despite Developer's efforts, the Property does not reach an assessed value of Five Million Dollars ($5,000,000) by January 1, 2019, Developer shall not be liable for the City's or the Authority's obligations under the WEDC Brownfields Grant Contract, but shall work cooperatively with the City and the Authority to secure an extension from WEDC.

4.3 The Authority shall use best efforts to cooperate with Developer to obtain approval for a revised CSM prior to the Developer's purchase of the Property at Developer's request.

ARTICLE 5
UNDERTAKINGS OF THE CITY

5.1 The City shall appropriate sufficient funds for the performance of the City's obligations under this Agreement.

5.2 The City shall cooperate with Developer throughout the implementation of the Project and shall promptly review and/or process all submissions and applications in accordance with applicable City ordinances.

5.3 The City has created and amended the District to support the Project.

5.4 The City will provide payments to the Developer as reimbursement for a portion of the Developer Costs as provided in this Agreement.

5.4.1 Reimbursement of Developer Costs. The City will provide payments to the Developer solely from future Tax Increment Revenue from the Property as a reimbursement for Developer Costs. The City and the Developer agree that there will be no reimbursement for any activities prior to the creation of the District. The Developer shall submit to the City's Director of Finance a summary of Developer Costs on a periodic basis as the development progresses. The City's total payment of Tax Increment Revenue to the Developer shall not exceed the lesser of: i) $4,267,500; or ii) twenty-five percent (25%) of the Tax Increment Value of Phases 1 & 2, plus interest thereon. The Contribution may be prepaid at any time, but until paid in full, the Tax

Increment Revenue payments will be provided to the Developer as follows: Each year over the life of the District, the City will pay the Developer ninety percent (90%) of the Tax Increment Revenue received by the City with respect to the Project in that year. No payments will be distributed until the property taxes have been paid on the Property.

5.5 As the sole source for payment of the Contribution, the City agrees to pay the Developer an amount equal to ninety percent (90%) of the Tax Increment Revenue and any City portion of payments received under a payment in lieu of taxes (PILOT) agreement applicable to the Property through the earlier of: (i) the date on which the Contribution has been paid in full; or (ii) the date the last Tax Increment Revenue is received from the District; (the "Expiration Date"). Interest on the Contribution shall begin to accrue effective on January 1st of the year following the date of this Agreement. The interest rate on the Contribution shall be the lesser of 1) the interest paid by the Developer to any lender for the Project, as evidenced by the note indicating the loan amount; or 2) four percent (4%).

5.6 Payments pursuant to this Agreement shall be made by August 15 each year. The Contribution shall be a special and limited obligation of the City and not a general obligation. Payments shall be applied first to the principal balance of the Contribution and second to accrued interest.

5.7 Developer hereby acknowledges that, as a result of the special and limited nature of the City's obligation to pay the Contribution, Developer's recovery of the full amount of the Contribution depends on factors including, but not limited to, future mill rates, changes in the assessed value of the Project, the failure of the Project to generate the Tax Increment Revenue in the amount expected by Developer, or reduction in Tax Increment Revenue caused by changes in the Tax Increment Law to the extent they apply retroactively to this Agreement or the District.

5.8 The City covenants to Developer that:

5.8.1 Until the Contribution plus interest thereon has been paid in full, the City shall not take any action to close the District. Upon the Expiration Date, the City will be entitled to close the District

and no liability shall remain from the City to the Developer upon expiration of the District, except the City's obligation to pay Tax Increment Revenue accrued but not paid prior to the Expiration Date.

5.8.2 The City shall reasonably cooperate with Developer to obtain any necessary amendments to the U.S. Fish and Wildlife permit or any other environmental permits currently affecting the Property or as required to complete the Project and allow the redevelopment of the Property.

ARTICLE 6
TAX STATUS

6.1 As long as the District is in existence, the Project including the land and all buildings and improvements thereon shall be owned and taxable for real estate tax, special assessment purposes and personal property taxes. The City may waive the above restriction upon execution of a payment in lieu of taxes (PILOT) agreement, in a form acceptable to the City, made between the City and the owner or lessee of the applicable portion of the Property.

ARTICLE 7
NO PARTNERSHIP OR VENTURE

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

ARTICLE 8
CONFLICT OF INTEREST

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

ARTICLE 9
WATER AND WATER RELATED PUBLIC IMPROVEMENTS

9.1 The City represents that water service is sized and available to serve the Property.

9.2 All plans and specifications for the design of the infrastructure and water improvements within the boundaries of the Development Area shall be subject to the approval of the City's department of public works prior to the commencement of construction of such improvements. Such approval shall not be unreasonably withheld.

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

ARTICLE 10
SANITARY SEWER

10.1 The City represents that sanitary sewer service is sized and available to serve the Property. Ejector pumps may be required, at Developer cost, based on the elevation of the existing sanitary sewer interceptor.

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

10.3 The parties agree to cooperate fully in all matters concerning the development of the sanitary sewer system, including, but not limited to, securing of permits, implementation of augmentation plans and acquisition of all rights-of-way and easements.

ARTICLE 11
STORMWATER MANAGEMENT

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

11.2 Prior to the occupancy of any buildings, the Developer shall provide to the City's department of public works an emergency flood plan for the Development Area.

11.3 A portion of the Development Area may be served from an 18-inch storm main in John Street.

ARTICLE 12
WRITTEN NOTICES

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

FOR THE CITY:

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

With a copy to:

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

DEVELOPER:

The Alexander Company, Inc.
Attn.: Colin Cassady
345 W. Washington Ave, Suite 301
Madison, WI 53703-3007

AND

IconiCare
Attn: Tom Pientka
901 Deming Way, Suite 102
Madison, WI 53717-1920

With a copy to:

Husch Blackwell LLP
Attn.: Angela Black
PO Box 1379
Madison, WI 53701-1379

ARTICLE 13
ASSIGNMENT

13.1 No party to this Agreement may assign any of its interest or obligations hereunder without first obtaining the written consent of all other parties except as otherwise provided for in this Agreement. Notwithstanding the foregoing, Developer may assign its rights and obligations under this Agreement, in whole or in part, to a successor owner of any portion of the Property. In addition, Developer may assign its rights under this Agreement to any lender providing financing for any portion of the Project and shall notify the City of any such assignment. The City shall not be bound to any such assignment until it has received written notice, including whether the Agreement has been assigned in whole or in part, the portion of the Property affected and which rights and obligations have been assigned. Developer may assign its rights and obligations hereunder without corresponding assignment of its right to collect the Contribution.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

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

CITY OF APPLETON:

By: _____
Timothy M. Hanna, Mayor

ATTEST:

By: _____
_____, City Clerk

STATE OF WISCONSIN)
: ss.
OUTAGAMIE COUNTY)

Personally came before me this ____ day of _____, 2016, Timothy M. Hanna, Mayor and _____, City Clerk, of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

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

APPROVED AS TO FORM:

_____
James P. Walsh, City Attorney

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

REDEVELOPMENT AUTHORITY OF THE CITY OF APPLETON:

By: _____
Karen E. Harkness, Executive Director

ATTEST:

By: _____
Printed Name: _____

STATE OF WISCONSIN)
: ss.
OUTAGAMIE COUNTY)

Personally came before me this ____ day of _____, 2016, Karen E. Harkness, Executive Director and _____, of the Redevelopment Authority of the City of Appleton respectively, to me known to be the persons who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

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

APPROVED AS TO FORM:

_____
Printed Name: _____

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

DEVELOPER:

EP Development, Inc.

By: _____
_____

STATE OF WISCONSIN)
: ss.
DANE COUNTY)

Personally came before me this ____ day of _____, 2016, _____, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and for the purposes therein intended.

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

SCHEDULE OF EXHIBITS

A	Legal Description of Property
B	Development Area
C	Development Plan
D	No Basement Area
E	City Trail Development Requirements
F	Approximate Location of Trail Easement
G	Trail Maintenance and Operating Agreement

EXHIBIT A

Legal Description of Property

SURVEYOR'S CERTIFICATE: *SHEET 2 OF 3*

I, Thomas M. Kromm, Wisconsin Registered Land Surveyor, certify that I have surveyed, combined, divided and or mapped under the direction of the City of Appleton, All of Lot 2 of Certified Survey Map No.6661 recorded in Volume 39 of Certified Survey Maps on Page 6661 as document No. 1990892, Part of vacated Alton Court and All of vacated East John Street, Part of Lot Three (3), part of Lot Four (4) and all of Lot Five (5) of Block "C", Lots 1-3 and 7-11 of Block "M" and part of Lots 5 and 6 of Block "M", Lawsburg Plat to the First Ward, all according to the recorded Assessor's Plat of the City of Appleton and being located in the SW 1/4 of Section 25 and also the NW 1/4 of Section 36, Township 21 North, Range 17 East, City of Appleton, Outagamie County, Wisconsin, containing ±8.1 Acres of land and water(First Ward Canal) and being further described as follows: Commencing at the SW corner of said Section 25; Thence North 89°02'51" East 686.19 feet along the South line of the SW ¼ of said Section 25 to the West line of Lot 4, Block M of Lawsburg Plat; Thence North 00°00'34" West 372.27 feet along the West line of said Lot 4 to the Northwest corner thereof and also being the Point of Beginning; Thence continue North 00°00'34" West 101.84 feet along the West line of Lot 3 of said Block M to the Northwest corner of said Lot 3; Thence South 89°55'47" East 207.21 feet along the South line of John Street; Thence North 89°57'41" East 118.41 feet along the South line of said John Street; Thence North 00°07'39" East 60.00 feet along the East line of said John Street; Thence South 89°57'41" West 118.52 feet along the North line of said John Street to the centerline of vacated Alton Court; Thence North 19°31'44" East 66.64 feet along the centerline of vacated Alton Court; Thence South 70°28'16" East 22.00 feet along the Northerly line of the East ½ of vacated Alton Court; Thence North 19°31'44" East 121.23 feet along the Easterly line of Alton Court; Thence South 66°26'47" East 74.04 feet; Thence North 48°53'38" East 39.18 feet; Thence South 57°18'17" East 60.31 feet; Thence North 63°54'32" East 22.80 feet; Thence South 57°18'17" East 47.97 feet to a meander corner which is North 57°18'17" West 25 feet m/l from the ordinary high water mark of the Fox River; Thence South 22°43'30" West 19.80 feet along a meander line to a meander corner which is North 57°18'17" West 30 feet m/l from the ordinary high water mark of the Fox River; Thence South 13°00'00" West 275.00 feet along a meander line to a meander corner which is North 81° West 24 feet m/l from the ordinary high water mark of the Fox River; Thence South 45°00'00" West 110.00 feet along a meander line to a meander corner which is North 45° West 45 feet m/l from the ordinary high water mark of the Fox River; Thence South 19°28'10" East 107.44 feet along a meander line to a meander corner which is South 35° West 27 feet m/l from the ordinary high water mark of the Fox River; Thence South 52°34'30" East 97.60 feet along a meander line to a meander corner which is North 52°34'30" West 30 feet m/l from the ordinary high water mark of the Fox River; Thence South 21°21'17" West 108.16 feet along a meander line to a meander corner which is North 71°40' West 32 feet m/l from the ordinary high water mark of the Fox River; Thence South 31°30'48" West 144.13 feet (recorded as 144.41 feet) along a meander line to the end of said meander line; Thence North 89°29'08" East 42.92 feet to an existing ¾" rebar located at the Northwesterly corner of granite (concrete) steps to the dam access; Thence South 76°33'25" East 5.04 feet (recorded as 4.91 feet) along the face of said steps to the Westerly edge of a 1.00 foot wide concrete retaining wall; Thence North 17°41'41" East 197.71 feet along the Westerly edge of said concrete retaining wall; Thence South 72°18'19" East 1.00 feet along the edge of said concrete retaining wall; Thence South 17°41'41" West 197.64 feet along the Easterly edge of said concrete retaining wall; Thence North 76°33'25" West 6.04 feet along the face of said steps to an existing ¾" rebar; Thence South 89°29'08" West 80.70 feet; Thence South 02°14'20" East 57.37 feet; Thence South 89°42'11" West 25.00 feet; Thence South 26°02'22" West 93.21 feet; Thence South 16°49'50" West 167.48 feet; Thence South 37°56'51" West 73.49 feet; Thence South 50°03'56" West 56.02 feet; Thence South 62°44'10" West 59.82 feet; Thence South 81°03'24" West 97.05 feet; Thence North 79°29'29" West 24.71 feet (recorded as 24.75 feet) to the West line of said Block "M"; Thence North 00°03'50" East 308.21 feet along the West line of said Block "M"; Thence North 89°07'52" East 5.30 feet; Thence North 19°19'59"

East 31.96 feet; Thence North 89°07'52" East 120.88 feet along the South line of said Lot 4 to the Southeast corner thereof; Thence North 09°08'09" East 569.70 feet (recorded as 569.95 feet) to the Southeast corner of Lot 3 of said Block “M”; Thence North 89°55'47" West 167.16 feet along the South line of said Lot 3 to the Point of Beginning. Including all those lands between the afore described meander line and the Fox River. Excluding the 1' x 197.7' m/l concrete retaining/breakwater wall owned by the USA. Subject to all easements and restrictions of record. That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes and the City of Appleton subdivision ordinance in surveying, dividing, combining and or mapping the same. That this map is a correct representation of all exterior boundaries of the land surveyed and the combination or division thereof.

Dated this _____ day of _____, 2013.

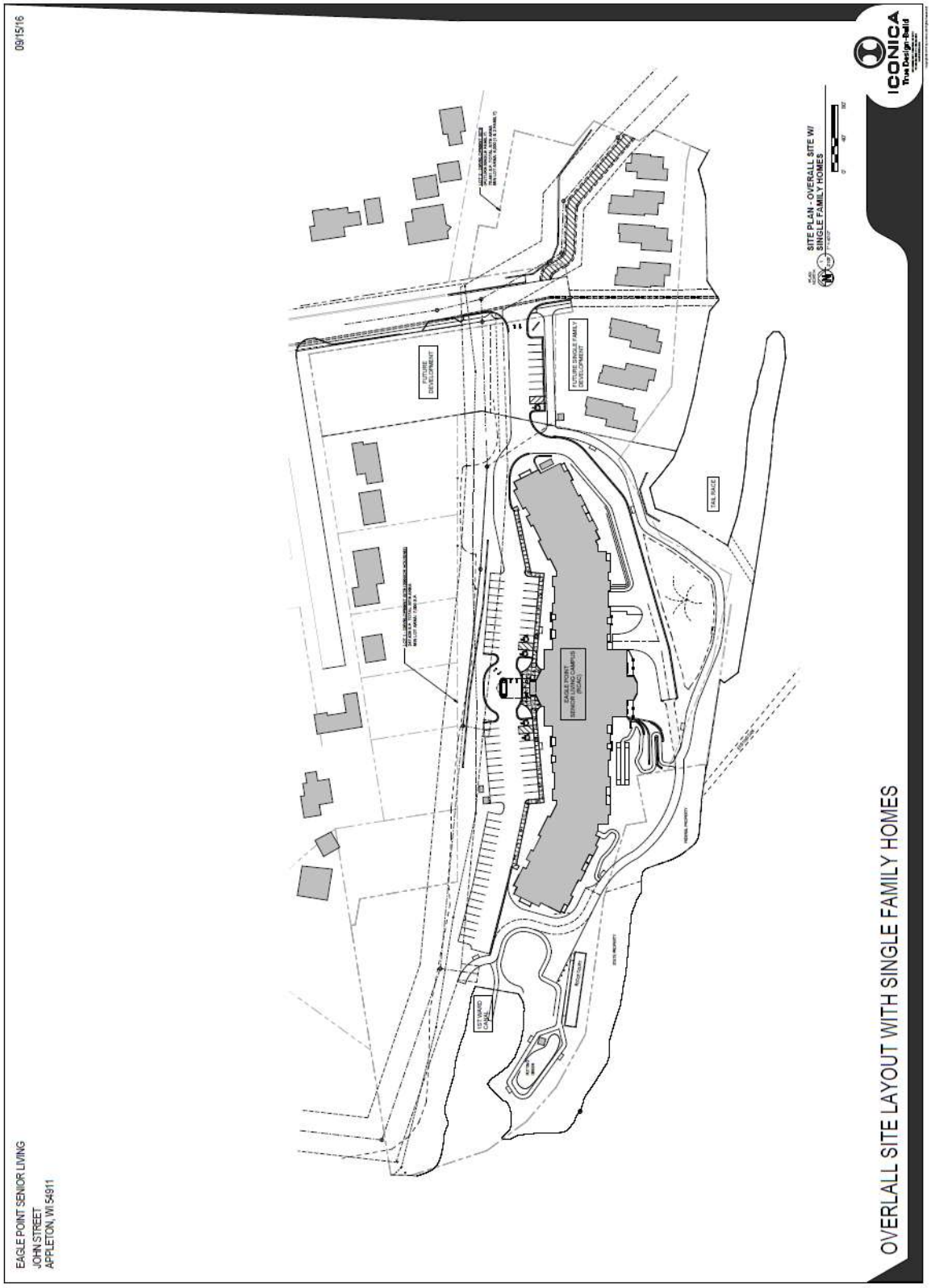
_____

Wisconsin Registered Land Surveyor, Thomas M. Kromm

This Certified Survey Map is contained fully within tax parcel 31-1-0765-01, 31-1-0732-00 and 31-1-0772-00. This Certified Survey Map is contained within the property described in the following recorded instruments: Doc. No.1967538, Doc.No.1995379 and less Doc. No.1995372.

EXHIBIT B
DEVELOPMENT AREA
S RANKIN ST
ALTON CT
E JOHN ST
SOUTH CT
E SOUTH ST
BROKAW PL
FOX RIVER
N
Legend
Development Area

EXHIBIT C


09/15/16
EAGLE POINT SENIOR LIVING
JOHN STREET
APPLETON, WI 54911
FUTURE DEVELOPMENT
FUTURE SINGLE FAMILY DEVELOPMENT
EAGLE POINT SENIOR LIVING CAMPUS
TAIL RACE
SITE PLAN - OVERALL SITE W/ SINGLE FAMILY HOMES
ICONICA
True Design-Build
OVERLALL SITE LAYOUT WITH SINGLE FAMILY HOMES

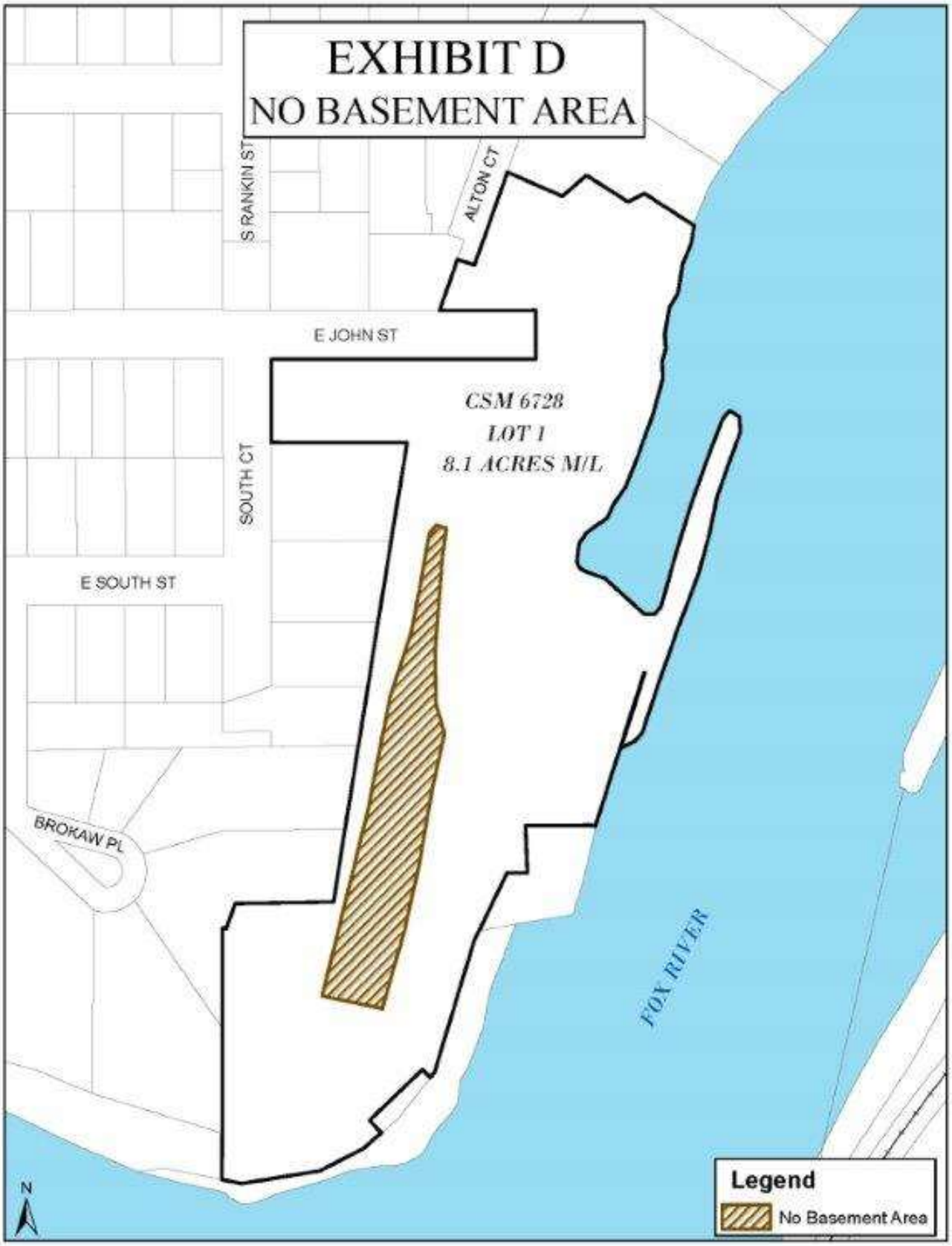


EXHIBIT D
NO BASEMENT AREA
S RANKIN ST
ALTON CT
E JOHN ST
CSM 6728
LOT 1
8.1 ACRES M/L
SOUTH CT
E SOUTH ST
BROKAW PL
FOX RIVER
N
Legend
No Basement Area

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

PARKS, RECREATION & FACILITIES MANAGEMENT
Parks & Recreation
100 North Appleton Street
Appleton, Wisconsin 54911-4799
(920) 832-5905 / FAX (920) 832-5950
www.appleton.org

EXHIBIT E

CITY TRAIL DEVELOPMENT REQUIREMENTS

Permanent Easement/Private Property

1. Easement. City shall be granted a permanent easement to the trail, as defined in the City of Appleton Trail Maintenance and Operations Plan ("Plan"), and the entire trail system on the property as exhibited in the Site Plan.

2. Maintenance. Developer shall maintain the easement area including trail maintenance, mowing, garbage removal, and removal of snow and ice as described in the Plan.

3. Construction.

    a. The trail must be constructed using asphalt, which must be a minimum of three (3) inches thick.

    b. The base of the trail must have a minimum of eight (8) inches of compacted gravel material.

    c. The minimum width of the base must be twelve (12) feet.

    d. Width of the paved/poured trail must be a minimum of ten (10) feet.

    e. Developer to install lighting along the trail including separate metering. Lighting shall be provided utilizing bollards and/or lighting poles spaced as submitted to the City on August 3, 2016, and for staff review on September 9, 2016. City approval will be granted upon completion of staff review of the Site Plan Resubmittal dated September 9, 2016, or any subsequent Resubmittals as necessary to obtain final City approval based upon staff review, which shall not be unreasonably withheld.

4. Vehicles. Maintenance and emergency vehicles may use the trail for the purposes of building, maintaining and responding to emergencies on the easement area.

5. Design. Developer to install the trail utilizing the design specified in this Development Requirements and per drawings resubmitted for staff review on September 9, 2016. City approval will be granted upon completion of staff review of the Site Plan Resubmittal dated September 9, 2016, or any subsequent Resubmittals as necessary to obtain final City approval based upon staff review, which shall not be unreasonably withheld.

EXHIBIT F

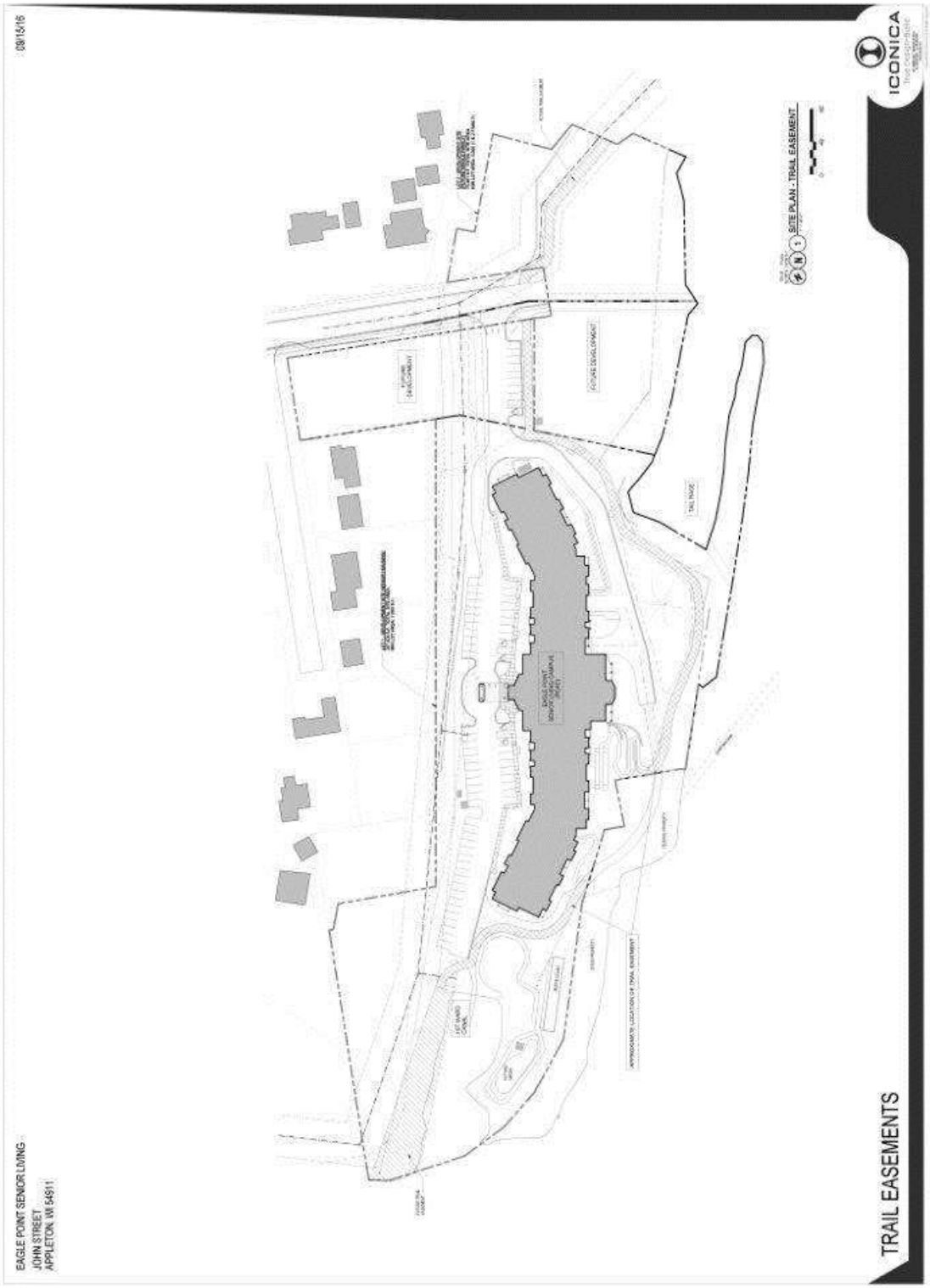

09/15/16
EAGLE POINT SENIOR LIVING
JOHN STREET
APPLETON, WI 54911
SITE PLAN - TRAIL EASEMENT
ICONICA
TRAIL EASEMENTS

Exhibit G

CITY OF APPLETON TRAIL MAINTENANCE AND OPERATING PLAN

Permanent Easement/Private Property

The purpose of this Trail Maintenance Plan ("***Plan***") is to clarify the duties and responsibilities of Owner and the City regarding the trail located on the Owner's property.

DEFINITIONS

For the purposes of this Plan, the following terms shall have the following meanings except where the context clearly indicates a different meaning:

City: The City of Appleton, a Wisconsin municipal corporation with a business address of 100 North Appleton Street, Appleton, WI 54911. A responsibility that must be completed by the City in accordance with this Plan may be done by an employee or authorized agent of the City.

City Code: The Municipal Code of the City of Appleton.

Defect: A problem with the trail or a portion thereof that may cause a safety concern or hazard to a person using the trail.

Fixture: Real property permanently located on the trail that is owned and maintained by the City, and may include benches, light fixtures and waste receptacles. City ownership of any Owner-installed fixtures shall be evidenced by a bill of sale from the Owner to the City.

Owner: The person(s) or entity that owns the property containing the trail. A responsibility that must be completed by the Owner in accordance with this Plan may instead be done by an employee or authorized agent of the Owner.

Trail: A paved path with a permanent easement to the City that is located on the Owner's property and designated a trail pursuant to City Code, Chapter 13, and subject to the rules and regulations thereof.

TRAIL MAINTENANCE

1.0 Owner's Responsibility

1.1 Trail Maintenance. The Owner is responsible for the following trail maintenance:

1.1.1 Snow and Ice Removal. The Owner must ensure snow and ice is removed from the trail, including plowing the trail within thirty-six (36) hours of the cessation of a snowfall and immediately treating the trail with sand, salt or other substance to prevent it from being slippery after the accumulation of ice.

1.1.2 Vegetation.

1.1.2.1 Encroaching Vegetation. The Owner must ensure a minimum of four (4) foot clearance from the paved edge of the trail at all times from encroaching vegetation, including grass, weeds, brush and tree limbs.

1.1.2.2 Grass. The Owner must mow the grass located within the easement area of the trail and must comply with the grass height limits per Sec. 12-58(c) of the City Code.

1.2 Inspection. The Owner must routinely inspect the trail for garbage, debris, obstructions, necessary repairs and defects.

1.2.1 Garbage and Debris. The Owner must ensure the immediate and proper disposal of any garbage and debris found on the trail.

1.2.2 Obstructions. The Owner must remove obstructions to or on the trail if the obstruction falls within Sec. 1.1.2.1 above, or if it is within the Owner's reasonable ability to remove the obstruction, otherwise the Owner must notify the City within twenty-four (24) hours of becoming aware of the obstruction whereupon the City shall be responsible for the removal of the obstruction.

1.2.3 Defects. The Owner must immediately notify the City upon becoming aware of a defect.

1.2.4 Repairs. The Owner must notify the City within three (3) business days of learning of the need to repair or replace a fixture or the need to repair the trail where the repair does not rise to the level of being a defect.

1.3 Claims. In the event the Owner becomes aware of an incident involving personal injury and/or property damage occurring on the trail, the Owner must notify the City within five (5) business days of becoming aware of the incident.

2.0 City's Responsibility

2.1 Trail Maintenance. The City is responsible for repairs to the trail, for the repair and/or replacement of fixtures, and for the removal of obstructions to or on the trail that the Owner is unable to remove.

2.1.1 Defects. Upon learning of a defect, the City must inspect the trail as soon as possible and make any necessary repairs, in the City's discretion, as soon as reasonably possible.

2.1.2 Repairs/Replacements. Upon learning of the need to repair or replace a fixture, or the need to repair the trail where the repair does not rise to the level of being a defect, the City shall inspect the fixture and/or trail as soon as reasonably possible to determine whether, in the City's discretion, repair or replacement is needed. The City shall make necessary repairs and/or replacements as soon as reasonably possible. City shall not make any replacement of a fixture substantially different from the original fixtures without the authorization of the Owner. Furthermore, City shall not install additional fixtures along Trail without Owner's consent, which shall not be unreasonably withheld.

2.1.3 Obstruction. Upon learning of an obstruction to or on the trail, the City shall be responsible for the removal of the obstruction as soon as reasonably possible and for the proper disposal of said obstruction.

2.2 Trail Operating Costs. The City shall be responsible for payment of the ongoing electric bills relating to lighting of the trail. Such costs shall be individually metered.

2.3 Trail Closure. The City shall be responsible for closing the trail for both planned and unplanned reasons, and must notify the Owner as soon as reasonably possible about a closure.

3.0 Other Terms And Conditions

3.1 Governing Law. This Plan is governed by the law of the State of Wisconsin, Outagamie County.

3.2 Disputes. Should a dispute arise out of this Plan, the Owner and the City agree to work together for thirty (30) days to try and resolve the dispute. If the dispute is not resolved, the parties agree to mediate the dispute prior to taking any further legal action.

3.3 Indemnification. Each Party (the "Indemnifying Party") shall indemnify, defend and hold harmless the other party and the other party's subsidiaries, affiliated entities, successors, assigns, officers, directors, shareholders, members, managers, employees, attorneys and agents (each an "Indemnified Party") from and against any and all claims, actions, causes of action, liabilities, losses, demands, fines, and penalties, judgments, damages or expenses, including reasonable attorney fees and costs incurred by or on behalf of any Indemnified Party due to, arising out of or relating to any act or omission of the Indemnifying Party under this Plan, except to the extent caused by the negligence or willful misconduct of the Indemnified Party.

3.4 Taxes and Assessments. The Owner and the City shall each be independently responsible for tax liabilities and IRS reporting requirements as they relate to this Plan.

3.5 Notice. Notices required pursuant to this Plan shall, whenever practicable, be served in person or, alternatively, mailed by Certified Mail with Return Receipt in which case the date of mailing shall be considered the date notice is given.

3.6 Amendments. This Plan may be modified at any time upon written agreement between the Owner and the City.

3.7 Insurance. The Owner must maintain insurance in accordance with the attached "INSURANCE REQUIREMENTS FOR CITY OF APPLETON 'SMALL EXPOSURE JOBS.'"

"EXHIBIT B"

INSURANCE REQUIREMENTS
FOR CITY OF APPLETON
"SMALL 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 must limits of:
(a) $1,000,000 general aggregate – per project
(b) $1,000,000 products - completed operations aggregate
(c) $1,000,000 personal injury and advertising injury, and
(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) Contractual Liability including coverage for the joint negligence of the City of Appleton, it 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. WORKERS COMPENSATION AND EMPLOYERS LIABILITY - If required by Wisconsin State Statute or any Workers Compensation Statutes of a different state.

A. Must have for Statutory Workers Compensation and Employers Liability limit of:
(a) $100,000 Each Accident
(b) $500,000 Disease Policy Limit
(c) $100,000 Disease - Each Employee

3. ADDITIONAL PROVISIONS

A. Additional Insured - On the General Liability Coverage. City of Appleton, and its officers, council members, agents, employees, and authorized volunteers shall be Additional Insureds.

B. Endorsement - The Additional Insured Policy endorsement must accompany the Certificate of Insurance.

C. Certificates of Insurance - A copy of the Certificate of Insurance must be provided if requested.

D. Notice - City of Appleton requires 30 days written notice of cancellation or non-renewal of the insurance coverage.

E. 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.

City of Appleton
Tax Incremental Financing District 8

TIF 8

E ELDORADO ST
N MARY ST
N APPLETON ST
N ONE
N MORRISON
N DREW
N PARK AV
N UNION ST
N LAWE ST
N MEADE ST
N RANKIN ST
N CATHERINE ST
N GREEN BAY RD
E WASHINGTON ST
E JOHNSTON ST
W COLLEGE AV
E COLLEGE AV
SOLDIERS SQUARE
S MORRISON ST
S DURKEE ST
S DREW ST
E ALTON ST
S RANKIN ST
ALTON CT
E LAWRENCE ST
S APPLETON ST
S ALLEN ST
S OAK ST
E KIMBALL ST
E JOHN ST
SOUTH CT
E SOUTH ST
ROCKY BLEIER RUN
E WATER ST
S RIVERHEATH WAY
E GUNN ST
E CANDEE ST
E BANTA CT
E NORTH ISLAND ST
S OLDE ONEIDA ST
S VULCAN ST
E SOUTH ISLAND ST
S ONEIDA ST
E SOUTH RIVER ST
S WEST CT
S WEST AV
S KERNAN AV
SOUTH MEADOWS DR
S EAST ST
ARBOR LA
S RITGER ST
S JACKSON ST
S JEFFERSON ST
S MADISON ST
E ORANGE ST
PRIVATE RD
ROCKY C

4-0828-9
4-0828-8
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4-0828-5
4-0828-4
4-0828-3
4-0827
4-0827-1
1-0772
1-0766
1-0771
4-0277
4-0277-1
4-0282-2
4-0282-6
4-0282-7
4-0282-3
4-0295-1
4-0257
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4-0282-4
4-0296
4-0773-1
4-0297

Date: 9/16/2016

N

M E M O R A N D U M

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

TO: CEDC and Finance Committee

FROM: Karen Harkness, Director of Community & Economic Development

DATE: September 16, 2016

RE: Offer to Purchase - 210 W. Edgewood Drive

---

210 W. Edgewood Drive is currently in the Town of Grand Chute and connects to the City of Appleton via Edgewood Drive. It is located south of Broadway Drive, east of Richmond Street, and west of Meade Street. Please see the attached map for location of this property. The site currently has a single-family residential home, a barn and sits on 19.41 acres.

This site is shown on the City's Future Land Use Map as Business/Industrial. The NE Lift Station is scheduled to be built just north of this site. Spartan Drive is officially mapped to the north of this property, and Sommers Drive is officially mapped to the west.

Annexation of the site is consistent with the boundary agreement with the Town of Grand Chute, and purchase of this property provides the City with control of its future land use in this growth corridor.

Prior to making this offer to purchase, the Community and Economic Development staff analyzed comparable sales data and reviewed growth trends, the Comprehensive Plan 2010-2030, utility and infrastructure access, and the needs of the community.

The Comprehensive Plan states:

Objective 9.4.1 "Ensure a continued adequate supply of industrial and commercial land to sustain new business development."

Objective 9.4.2 "Proactively acquire property targeted for redevelopment and develop a land bank to assist in property assembly."

After this detailed analysis, an offer to purchase for $600,000 was submitted August 26, 2016. This was calculated at $30,911.90 at 19.41 acres and it shall be reduced upon confirmation of wetlands, up to a maximum of 1.5 acres of wetlands which shall be equal to a maximum possible reduction in the purchase price of no more than $46,367.84. The following are contingencies:

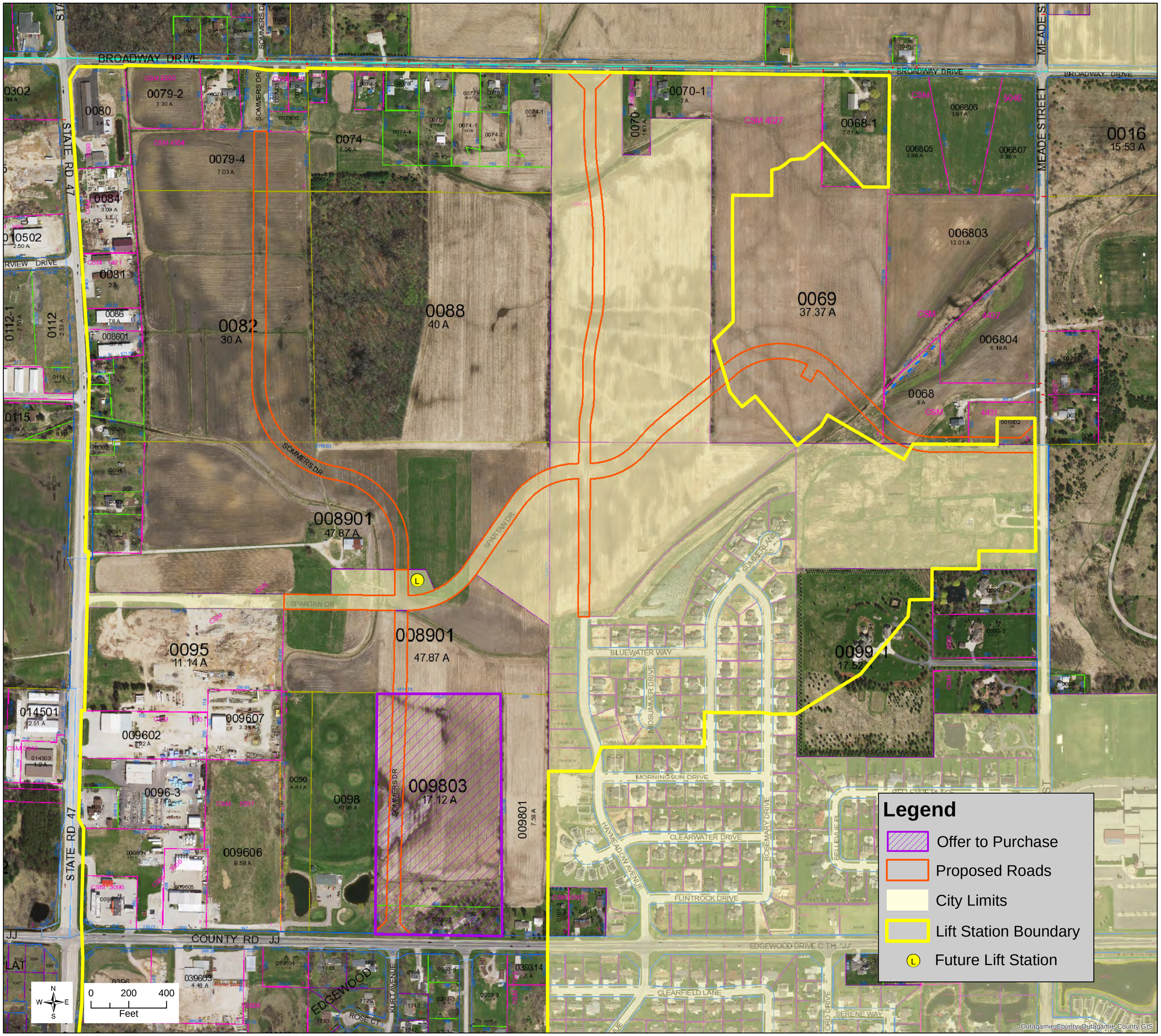
- Approval of this offer to purchase via the City's approval process on or before October 6, 2016.

- Inspection of home and barn to buyer's satisfaction, including radon/well/septic/ holding tank testing.
- Land feasibility study, including but not limited to, wetland delineation, phase 1, etc.
- Buyer being able to review and being satisfied with any land leases, encumbrances, easements or agreements/MOU, within 20 business days of this Offer to Purchase.
- Seller to occupy home payment free for up to one year.
- Seller to have the right to remove personal property stored in the barn.
- Buyer will be responsible for conversion costs or assessments.

The Industrial Park Land fund is the clearinghouse for the City's industrial and business park land sale revenue, acquisition of associated land, debt service from prior acquisition and land development costs associated with industrial/business park infrastructure. The fund balance in the Industrial Park Land Fund as of September 16, 2016 is $1,524,300 and monies from this fund would be used to purchase this property as well as $10,000 for due diligence as outlined in the contingencies.

Staff Recommendation:

The City approves the offer to purchase of 210 W. Edgewood Drive and authorizes the budget adjustment from the Industrial Park Land Fund for the associated acquisition and due diligence costs not to exceed $610,000.00.


BROADWAY DRIVE
STATE RD 47
SOMMERS DR
MEADE STREET
0079-2
3.30 A
0080
0079-4
7.03 A
0074
7.56 A
0070-1
0068-1
5.01 A
006806
3.91 A
006805
3.89 A
006807
3.38 A
0016
15.53 A
0084
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0088
40 A
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SPARTAN DR
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47.87 A
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0099-1
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009607
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3.92 A
0096-3
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009803
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009606
8.58 A
COUNTY RD JJ
039603
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039314
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EDGEWOOD
KURT AVENUE
ROSE CT
BLUEWATER WAY
MIDSUMMER DRIVE
MORNINGSUN DRIVE
CLEARWATER DRIVE
HAYMEADOW AVENUE
ROSEMARY DRIVE
FLINTROCK DRIVE
EDGEWOOD DRIVE C.T.H. "JJ"
CLEARFIELD LANE
SERENE WAY
BELLEVUE PL
Legend
Offer to Purchase
Proposed Roads
City Limits
Lift Station Boundary
Future Lift Station
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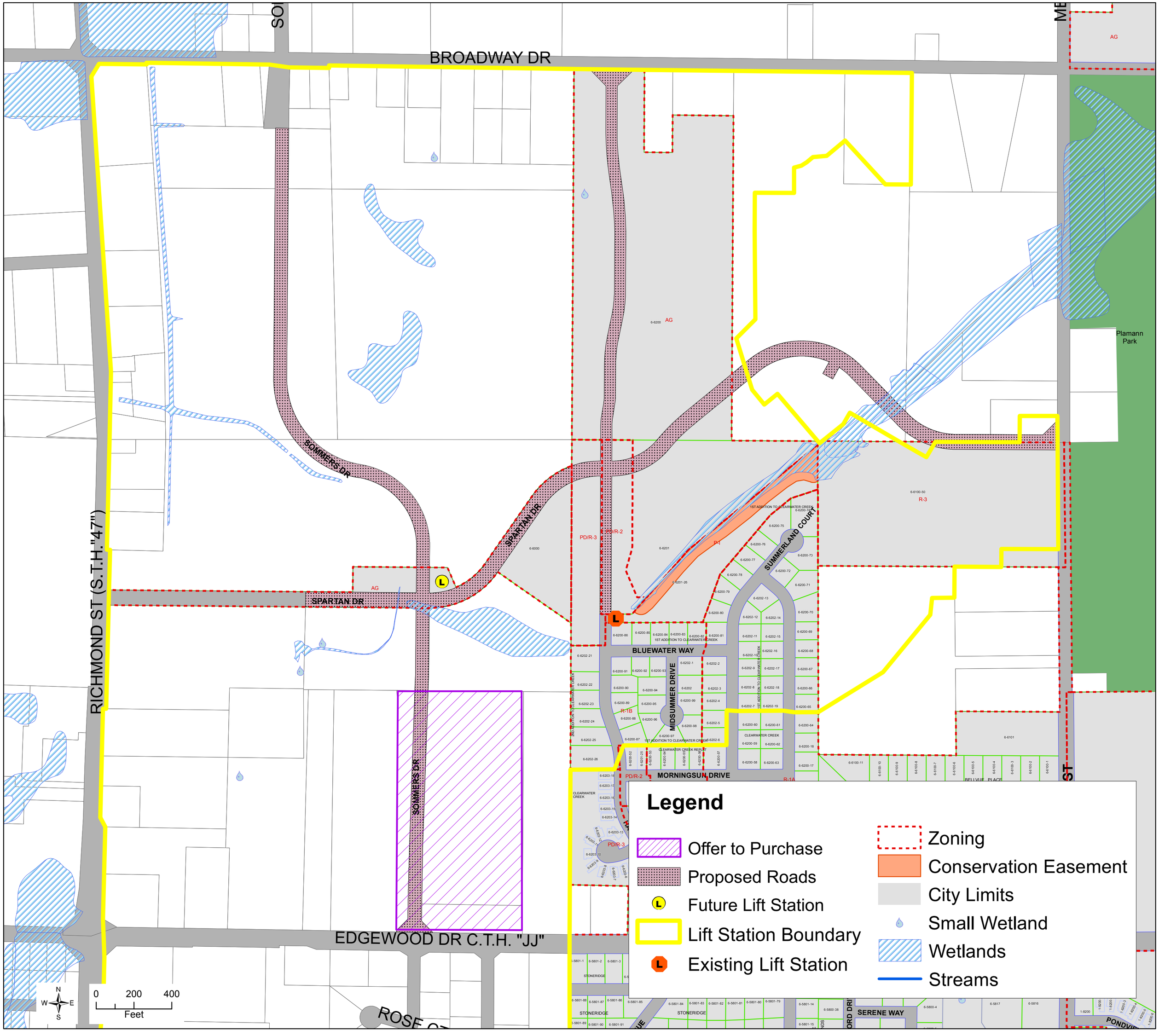
Feet
Outagamie County, Outagamie County GIS


BROADWAY DR
RICHMOND ST (S.T.H."47")
EDGEWOOD DR C.T.H. "JJ"
SPARTAN DR
BOMMERS DR
SOMMERS DR
SUMMERLAND COURT
BLUEWATER WAY
MIDSUMMER DRIVE
MORNINGSUN DRIVE
SERENE WAY
Plamann Park
AG
PD/R-3
PD/R-2
R-1B
R-1A
R-3
P-I
Legend
Offer to Purchase
Proposed Roads
Future Lift Station
Lift Station Boundary
Existing Lift Station
Zoning
Conservation Easement
City Limits
Small Wetland
Wetlands
Streams
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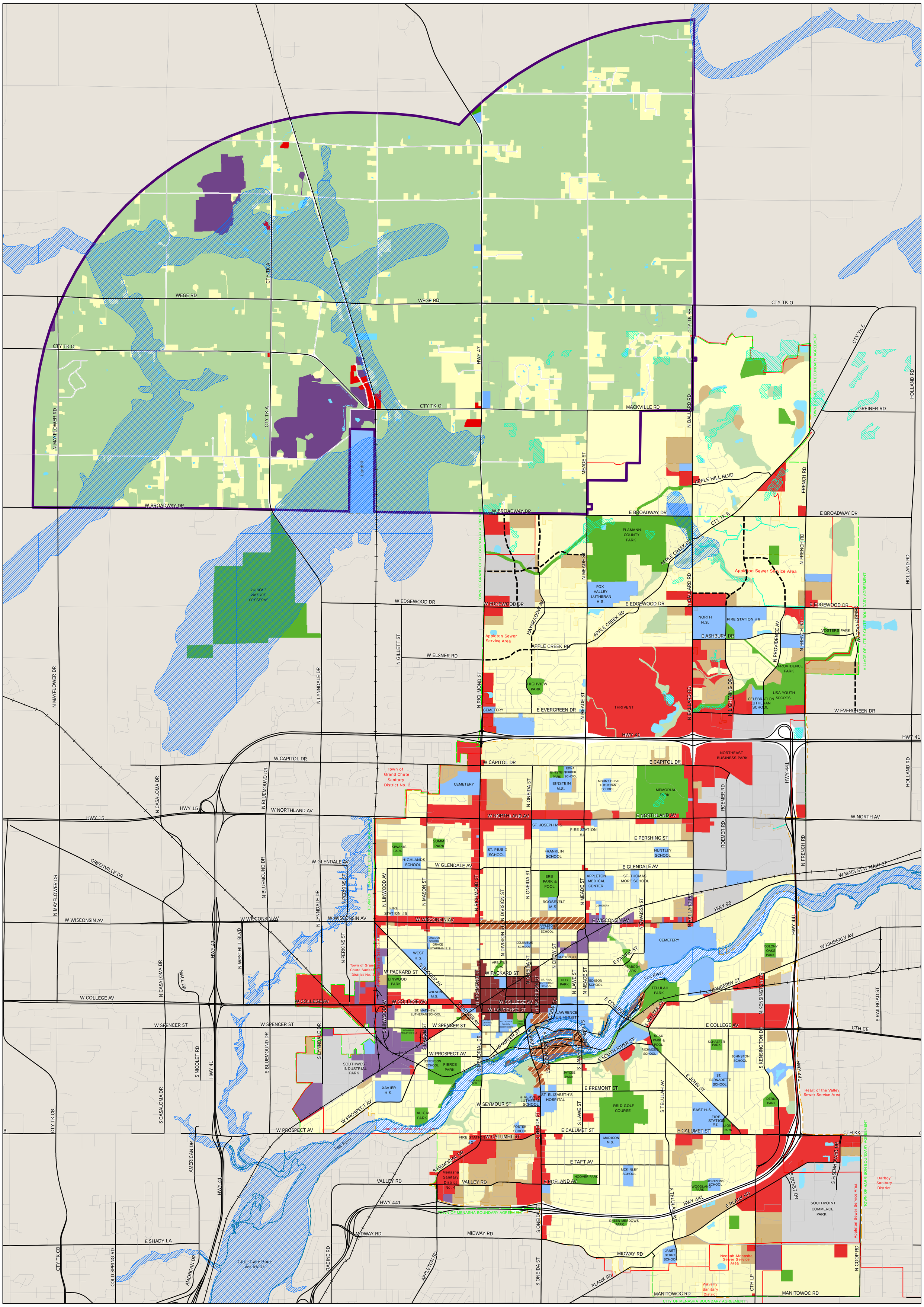

Future Land Use

For additional detail on the Wisconsin Avenue Corridor, Richmond Street Corridor, and South Oneida Street Corridor, refer to the respective chapters of the Comprehensive Plan

Updated 06/2016

WB-11 RESIDENTIAL OFFER TO PURCHASE

LICENSEE DRAFTING THIS OFFER ON August 26, 2016 [DATE] IS (AGENT OF BUYER) ~~(AGENT OF SELLER/LISTING BROKER) (AGENT OF BUYER AND SELLER)~~ STRIKE THOSE NOT APPLICABLE

GENERAL PROVISIONS The Buyer, City of Appleton, 100 North Appleton Street, Appleton, WI 54911, offers to purchase the Property known as [Street Address] 210 West Edgewood Drive in the Town of Grand Chute, County of Outagamie Wisconsin (insert additional description, if any, at lines 165-172 or 435-442 or attach as an addendum per line 434), on the following terms:

■ PURCHASE PRICE: Six hundred thousand dollars and no/100, subject to adjustments outlined in Addendum Dollars ($600,000.00).

■ EARNEST MONEY of $ _____ accompanies this Offer and earnest money of $ 1,500.00 will be mailed, or commercially or personally delivered within seven days of acceptance to listing broker or _____.

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

■ INCLUDED IN PURCHASE PRICE: Seller is including in the purchase price the Property, all Fixtures on the Property on the date of this Offer not excluded at lines 17-18, and the following additional items: _____.

■ NOT INCLUDED IN PURCHASE PRICE: _____.

CAUTION: Identify Fixtures that are on the Property (see lines 185-193) to be excluded by Seller or which are rented and will continue to be owned by the lessor.

NOTE: The terms of this Offer, not the listing contract or marketing materials, determine what items are included/excluded.

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

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

BINDING ACCEPTANCE This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or before Thursday, September 1, 2016 at 4:30 p.m. Seller may keep the Property on the market and accept secondary offers after binding acceptance of this Offer.

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

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

DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Offer, delivery of documents and written notices to a Party shall be effective only when accomplished by one of the methods specified at lines 36-54.

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

Seller's recipient for delivery (optional): _____

Buyer's recipient for delivery (optional): Karen Harkness, Director Community and Economic Development

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

Seller: (_____) _____ Buyer: (_____) _____

☐ (3) Commercial Delivery: depositing the document or written notice fees prepaid or charged to an account with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery if named at line 38 or 39, for delivery to the Party's delivery address at line 47 or 48.

☐ (4) U.S. Mail: depositing the document or written notice postage prepaid in the U.S. Mail, addressed either to the Party, or to the Party's recipient for delivery if named at line 38 or 39, for delivery to the Party's delivery address at line 47 or 48.

Delivery address for Seller: _____

Delivery address for Buyer: _____

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

E-Mail address for Seller (optional): _____

E-Mail address for Buyer (optional): Karen.Harkness@appleton.org

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 165-172 or 435-442 or in an addendum attached per line 434. At time of Buyer's occupancy, Property shall be in broom swept condition and 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.

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. Defects in the roof.
b. Defects in the electrical system.
c. Defects in part of the plumbing system (including the water heater, water softener and swimming pool) that is included in the sale.
d. Defects in the heating and air conditioning system (including the air filters and humidifiers).
e. Defects in the well, including unsafe well water.
f. Property is served by a joint well.
g. Defects in the septic system or other sanitary disposal system.
h. Underground or aboveground fuel storage tanks on or previously located on the Property. (If "yes", the owner, by law, may have to register the tanks with the Department of Commerce at P.O. Box 7970, Madison, Wisconsin, 53707, whether the tanks are in use or not. Regulations of the Department of Commerce may require the closure or removal of unused tanks.)
i. "LP" tank on the Property (specify in the additional information whether the tank is owned or leased).
j. Defects in the basement or foundation (including cracks, seepage and bulges).
k. Property is located in a floodplain, wetland or shoreland zoning area.
l. Defects in the structure of the Property.
m. Defects in mechanical equipment included in the sale either as Fixtures or personal property.
n. Boundary or lot line disputes, encroachments or encumbrances (including a joint driveway).
o. Defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, lead in paint, lead in soil, lead in water supplies or plumbing system, or other potentially hazardous or toxic substances on the Property. **NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.**
p. Presence of asbestos or asbestos-containing materials on the Property.
q. Defect caused by unsafe concentrations of, unsafe conditions relating to, or the storage of, hazardous or toxic substances on neighboring properties.
r. Current or previous termite, powder-post beetle or carpenter ant infestations or Defects caused by animal or other insect infestations.
s. Defects in a wood burning stove or fireplace or Defects caused by a fire in a stove or fireplace or elsewhere on the Property.
t. Remodeling affecting the Property's structure or mechanical systems or additions to Property during Seller's ownership without required permits.
u. Federal, state, or local regulations requiring repairs, alterations or corrections of an existing condition.
v. Notice of property tax increases, other than normal annual increases, or pending property reassessment.
w. Remodeling that may increase Property's assessed value.
x. Proposed or pending special assessments.
y. Property is located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district.
z. Proposed construction of a public project that may affect the use of the Property.
aa. Subdivision homeowners' associations, common areas co-owned with others, zoning violations or nonconforming uses, rights-of-way, easements or another use of a part of the Property by non-owners, other than recorded utility easements.
bb. Structure on the Property is designated as an historic building or part of the Property is in an historic district.
cc. Any land division involving the Property for which required state or local permits had not been obtained.
dd. Violation of state or local smoke and carbon monoxide detector laws.
ee. High voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property.
ff. The Property is subject to a mitigation plan required by Wisconsin Department of Natural Resources (DNR) rules related to county shoreland zoning ordinances that obligates the owner to establish or maintain certain measures related to shoreland conditions, enforceable by the county.
gg. Other Defects affecting the Property.

(Definitions Continued on page 4)

CLOSING This transaction is to be closed no later than Friday, November 5, 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 _____.

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 _____. Insert additional terms, if any, at lines 165-172 or 435-442 or attach as an addendum per line 434.

RENTAL WEATHERIZATION This transaction (is) (is not) STRIKE ONE exempt from Wisconsin Rental Weatherization Standards (Wis. Admin. Code Ch. Comm 67). If not exempt, (Buyer) (Seller) STRIKE ONE ("Buyer" if neither is stricken) shall be responsible for compliance, including all costs, with Wisconsin Rental Weatherization Standards. If Seller is responsible for compliance, Seller shall provide a Certificate of Compliance at closing.

REAL ESTATE CONDITION REPORT Wisconsin law requires owners of property which includes 1-4 dwelling units to provide Buyers with a Real Estate Condition Report. Excluded from this requirement are sales of property that has never been inhabited, sales exempt from the real estate transfer fee, and sales by certain court-appointed fiduciaries, (for example, personal representatives who have never occupied the Property). The form of the Report is found in Wis. Stat. § 709.03. The law provides: "§ 709.02 Disclosure . . . the owner of the property shall furnish, not later than 10 days after acceptance of the contract of sale . . ., to the prospective Buyer of the property a completed copy of the report . . . A prospective Buyer who does not receive a report within the 10 days may, within 2 business days after the end of that 10 day period, rescind the contract of sale . . . by delivering a written notice of rescission to the owner or the owner's agent." Buyer may also have certain rescission rights if a Real Estate Condition Report disclosing defects is furnished before expiration of the 10 days, but after the Offer is submitted to Seller. Buyer should review the report form or consult with an attorney for additional information regarding rescission rights.

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 64-114) other than those identified in Seller's Real Estate Condition Report dated April 12, 2016 _____, 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 CONDITION REPORT

ADDITIONAL PROVISIONS/CONTINGENCIES _____

DEFINITIONS CONTINUED FROM PAGE 2

■ DEADLINES: "Deadlines" expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and any other day designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

■ DEFECT: "Defect" means a condition that would have a significant adverse effect on the value of the Property; that would significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

■ FIXTURE: A "Fixture" is an item of property which is physically attached to or so closely associated with land or improvements so as to be treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage to the premises, items specifically adapted to the premises and items customarily treated as fixtures, including, but not limited to, all: garden bulbs; plants; shrubs and trees; screen and storm doors and windows; electric lighting fixtures; window shades; curtain and traverse rods; blinds and shutters; central heating and cooling units and attached equipment; water heaters and treatment systems; sump pumps; attached or fitted floor coverings; awnings; attached antennas; garage door openers and remote controls; installed security systems; central vacuum systems and accessories; in-ground sprinkler systems and component parts; built-in appliances; ceiling fans; fences; storage buildings on permanent foundations and docks/piers on permanent foundations.

CAUTION: Exclude any Fixtures to be retained by Seller or which are rented (e.g., water softener or other water conditioning systems, home entertainment and satellite dish components, L.P. tanks, etc.) on lines 17-18.

■ PROPERTY: Unless otherwise stated, "Property" means the real estate described at lines 4-7.

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

CAUTION: Buyer should verify total square footage formula, total square footage/acreage figures, and land, building or room dimensions, if material.

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.

IF LINE 217 IS NOT MARKED OR IS MARKED N/A LINES 257-263 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 228 or 229.

☐ **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 165-172 or 435-442 or in an addendum attached per line 434.

■ 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 219. **Buyer and Seller agree that delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall satisfy 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.

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

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

If Buyer defaults, Seller may:

(1) sue for specific performance and request the earnest money as partial payment of the purchase price; or

(2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) sue for actual damages.

If Seller defaults, Buyer may:

(1) sue for specific performance; or

(2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

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

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

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

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

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

[ ] **CLOSING OF BUYER'S PROPERTY CONTINGENCY:** This Offer is contingent upon the closing of the sale of Buyer's property located at _____, no later than _____. If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer of acceptance. If Buyer does not deliver to Seller a written waiver of the Closing of Buyer's Property Contingency and _____

_____

[INSERT OTHER REQUIREMENTS, IF ANY (e.g., PAYMENT OF ADDITIONAL EARNEST MONEY, WAIVER OF ALL CONTINGENCIES, OR PROVIDING EVIDENCE OF SALE OR BRIDGE LOAN, etc.)] within ____ hours of Buyer's Actual Receipt of said notice, this Offer shall be null and void.

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

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

_____

_____. 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 contract. If "Time is of the Essence" does not apply to a date or Deadline, then performance within a reasonable time of the date or Deadline is allowed before a breach occurs.

TITLE EVIDENCE

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

_____

_____

_____

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

WARNING: Municipal and zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should be reviewed, particularly if Buyer contemplates making improvements to Property or a use other than the current use.

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

■ GAP ENDORSEMENT: Seller shall provide a "gap" endorsement or equivalent gap coverage at (Seller's)(Buyer's) STRIKE ONE ("Seller's" if neither stricken) cost to provide coverage for any liens or encumbrances first filed or recorded after the effective date of the title insurance commitment and before the deed is recorded, subject to the title insurance policy exclusions and exceptions, provided the title company will issue the endorsement. If a gap endorsement or equivalent gap coverage is not available, Buyer may give written notice that title is not acceptable for closing (see lines 353-359).

■ PROVISION OF MERCHANTABLE TITLE: For purposes of closing, title evidence shall be acceptable if the required title insurance commitment is delivered to Buyer's attorney or Buyer not less than 5 business days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be merchantable per lines 326-335, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and exceptions, as appropriate.

■ TITLE NOT ACCEPTABLE FOR CLOSING: If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and the time for closing shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does not extinguish Seller's obligations to give merchantable title to Buyer.

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

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

EARNEST MONEY

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

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

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

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

INSPECTIONS AND TESTING

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

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

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

[✓] **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 395-409). This Offer is contingent upon a Wisconsin registered home inspector performing a home inspection of the Property which discloses no Defects. This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an inspection of _____ _____ (list any Property component(s) to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) which discloses no Defects. Buyer shall order the inspection(s) and be responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection, provided they occur prior to the deadline specified at line 421. Inspection(s) shall be performed by a qualified independent inspector or independent qualified third party.

CAUTION: Buyer should provide sufficient time for the home inspection and/or any specialized inspection(s), as well as any follow-up inspection(s).

This contingency shall be deemed satisfied unless Buyer, within _____ days of acceptance, delivers to Seller a copy of the written inspection report(s) and a written notice listing the Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects).

CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement.

For the purposes of this contingency, Defects (see lines 182-184) do not include structural, mechanical or other conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

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

[✓] **ADDENDA:** The attached Purchase Price Addendum _____ is/are made part of this Offer.

ADDITIONAL PROVISIONS/CONTINGENCIES 1) Offer is contingent upon approval of this Offer via the City's approval process on or before October 6, 2016.
2) Offer is contingent upon inspection of any/all outbuildings (sheds, stalls, barns, etc., as applicable) and the following testing: radon testing, well system testing, septic system testing, holding tank(s) testing.
3) Offer is contingent upon land feasibility study including, but not limited to, wetlands delineation, phase I, etc.
4) Offer is contingent upon seller providing buyer any/all information and documention regarding land leases, land agreements, encumbrances, easements, etc., whether made in writing or orally, within twenty (20) days of acceptance of Offer.
5) Lease between buyer and seller for seller to occupy home payment free for up to one year, subject to terms of lease.

This Offer was drafted by [Licensee and Firm] Emily Truman, Assistant City Attorney, City of Appleton _____ on August 26, 2016.

(x) Kyle E. Kerzner 8/26/2016
Buyer's Signature ▲ Print Name Here ▶ Date ▲

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

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

_____ Broker (By) _____

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

(x) _____
Seller's Signature ▲ Print Name Here ▶ Date ▲

(x) _____
Seller's Signature ▲ Print Name Here ▶ Date ▲

This Offer was presented to Seller by [Licensee and Firm] _____
CB-TREG, INC. on 8-30-16 at 3:30 ~~a.m.~~/p.m.

This Offer is rejected _____ _____ This Offer is countered [See attached counter] AB 9-1-16
Seller Initials ▲ Date ▲ Seller Initials ▲ Date ▲

Purchase Price Addendum

Actual purchase price of $600,000, calculated at $30,911.90 at 19.41 acres, shall be reduced upon the confirmed discovery of wetlands on the property, as confirmed by the wetlands delineation, up to a maximum of 1.5 acres of wetlands which shall be equal to a maximum possible reduction in the purchase price of no more than $46,367.84. Should there be more than 1.5 acres of wetlands on the property, the additional amount of wetlands shall not be reduced from the purchase price. Should there be less than 1.5 acres of wetlands on the property, the actual amount shall be calculated to the hundredths of an acre for the purpose of calculating the actual purchase price.

DS 9-1-16

initials date

Approved by Wisconsin Real Estate Examining Board
10-1-15 (Optional Use Date) 1-1-16 (Mandatory Use Date)

WISCONSIN REALTORS® ASSOCIATION
4801 Forest Run Road
Madison, Wisconsin 53704

WB-44 COUNTER-OFFER

Counter-Offer No. 1 by (Buyer/Seller) STRIKE ONE

NOTE: Number this Counter-Offer sequentially, e.g. Counter-Offer No. 1 by Seller, Counter-Offer No. 2 by Buyer, etc.

The Offer to Purchase dated 08/26/2016 and signed by Buyer Karen Harkness for purchase of real estate at 210 W. Edgewood Drive, Appleton WI 54914 is rejected and the following Counter-Offer is hereby made.

CAUTION: This Counter-Offer does not include the terms or conditions in any other counter-offer or multiple counter-proposal unless incorporated by reference.

All terms and conditions remain the same as stated in the Offer to Purchase except the following: 1) Seller to have the right to remove any personal property currently stored in the barn, and any items left in the barn after property is vacated shall remain with the property. 2) It is understood that buyer will be responsible for any conversion costs or assessments levied by either the Town of Grand Chute, Outagamie County or the State of Wisconsin in regards to the change in zoning i.e. from agricultural to residential or any other proposed future use.

The attached _____ is/are made part of this Counter-Offer.

Any warranties, covenants and representations made in this Counter-Offer survive the closing of this transaction.

This Counter-Offer is binding upon Seller and Buyer only if a copy of the accepted Counter-Offer is delivered to the Party making the Counter-Offer on or before September 16, 2016 (Time is of the Essence). Delivery of the accepted Counter-Offer may be made in any manner specified in the Offer to Purchase, unless otherwise provided in this Counter-Offer.

NOTE: The Party making this Counter-Offer may withdraw the Counter-Offer prior to acceptance and delivery as provided at lines 30-33.

This Counter-Offer was drafted by Thomas A. Werth CB-TREG, Inc. (Licensee and Firm ▲) on 08/31/2016 (Date ▲).

(x) Dorothy Silha 9-2-16
Signature of Party Making Counter-Offer ▲ Date ▲
Print name ▶ Dorothy R. Silha

(x) Karen E. Harkness 9/13/2016
Signature of Party Accepting Counter-Offer ▲ Date ▲
Print name ▶ Karen E. Harkness 9/13/2016

(x) _____
Signature of Party Making Counter-Offer ▲ Date ▲
Print name ▶

(x) _____
Signature of Party Accepting Counter-Offer ▲ Date ▲
Print name ▶

This Counter-Offer was presented by Emily Thomas - Bid Lay Alty (Licensee and Firm ▲) on 9/2/16 (Date ▲).

This Counter-Offer is (rejected) (countered) STRIKE ONE (Party's Initials) _____ (Party's Initials) _____

NOTE: Provisions from a previous Counter-Offer may be included by reproduction of the entire provision or incorporation by reference. Provisions incorporated by reference may be indicated in the subsequent Counter-Offer by specifying the number of the provision or the lines containing the provision. In transactions involving more than one Counter-Offer, the Counter-Offer referred to should be clearly specified.