



City of Appleton

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

Meeting Agenda - Final Common Council

Wednesday, May 3, 2017

7:00 PM

Council Chambers

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

[17-614](#)

Approval of Common Council Meeting Minutes of:
April 18, 2017 Common Council Informal Organizational Meeting
April 19, 2017 Common Council Organizational Meeting
April 19, 2017 Common Council Meeting

Attachments: [CC Minutes 4-18-17 Informal Org.pdf](#)

[CC Minutes 4-19-17 Organizational.pdf](#)

[CC Minutes 4-19-17.pdf](#)

- H. BUSINESS PRESENTED BY THE MAYOR

[17-612](#)

Presentation of Municipal Clerk's Week Proclamation

[17-613](#)

Reappointment of Ronald Dunlap to the Police and Fire Commission

Attachments: [COMM REAPPOINT PFC 050317.pdf](#)

- I. PUBLIC HEARINGS

[17-616](#)

Public Hearing for Final Resolution 3-P-17, Sanitary Laterals, Storm
Laterals, and Storm Main

Attachments: [3-P-17 Sanitary and Storm Public Hearing Notice.pdf](#)

- J. SPECIAL RESOLUTIONS

[17-615](#) Final Resolution 3-P-17 for Sanitary Laterals, Storm Laterals and Storm Main

Attachments: [3-P-17 Sanitary and Storm Final Resolution.pdf](#)

K. ESTABLISH ORDER OF THE DAY

L. COMMITTEE REPORTS

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[17-588](#) Request from Appleton Area School District AP Coordinator to reduce or waive the parking fees (\$5) for students taking the AP Exam at the Radisson Paper Valley Hotel.

Attachments: [Appleton Area School District AP Coordinator.pdf](#)

Legislative History

4/25/17	Municipal Services Committee	recommended for denial
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[17-589](#) Approve Intergovernmental Agreement with the Town of Grand Chute for Lanser Road and the Green Grove Plat contingent upon Council approved budget adjustment.

Attachments: [Intergovernmental Agreement Lanser Lane and Green Grove Plat.pdf](#)

Legislative History

4/25/17	Municipal Services Committee	recommended for approval
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[17-590](#) Request from Appleton Downtown Inc. for a street occupancy permit to host a Sidewalk Sale on Saturday, May 13, 2017 from 10:00 a.m. to 2:00 p.m. (in conjunction with Sole Burner 5K) on the beautification strip from 600 W. College Avenue to 300 E. College Avenue.

Attachments: [ADI-Sidewalk Sale-May 13, 2017.pdf](#)

Legislative History

4/25/17	Municipal Services Committee	recommended for approval
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[17-591](#) Request from Appleton Downtown Inc. for a street occupancy permit to host a Sidewalk Sale on Saturday, August 5, 2017 from 10:00 a.m. to 6:00 p.m. (during Mile of Music) on the beautification strip from 600 W. College Avenue to 300 E. College Avenue.

Attachments: [ADI-Sidewalk Sale-August 5, 2017.pdf](#)

Legislative History

4/25/17 Municipal Services recommended for approval
Committee

[17-592](#)

Request from Appleton Downtown Inc. for street occupancy permits for College Avenue (600 W. College Avenue to 300 E. College Avenue) as follows:

- a. May 19, 2017-Celebrate Culture in the beautification strip area only (1:00 p.m. to 9:00 p.m.)
- b. June 16, 2017-Hidden Textures in the beautification strip area only (1:00 p.m. to 9:00 p.m.)
- c. July 21, 2017-Chalk on the Town in the sidewalk area only (1:00 p.m. to 9:00 p.m.)
- d. August 18, 2017-Paint on the Town in the beautification strip area only (1:00 p.m. to 9:00 p.m.)
- e. September 15, 2017-Park-ing Day in the beautification strip area only (1:00 p.m. to 9:00 p.m.)

Attachments: [ADI Sidewalk Occupancy Permit various events.pdf](#)

Legislative History

4/25/17 Municipal Services recommended for approval
Committee

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

[17-389](#)

Class "A" Beer License change of agent of Kwik Trip, Inc., Ashley M. Fralick, Agent, 306 N. Richmond St., contingent upon approval from the Police Department.

Legislative History

4/26/17 Safety and Licensing recommended for approval
Committee

[17-391](#)

Secondhand Mall/Flea License Renewal application of Ye Old Goat, Meghan M. Keller, Applicant, 1919 E. Calumet St., contingent upon approval from all departments.

Legislative History

4/26/17 Safety and Licensing recommended for approval
Committee

[17-402](#)

"Class A" Beer/Liquor License application of AADYA, LLC d/b/a Calumet Pantry, Mahendra Patel, Agent, 2333 W. Wisconsin Ave., contingent upon approval from all departments.

Attachments: [Calumet Pantry application.pdf](#)

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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[17-410](#)

"Class A" Beer/Liquor License-Change of Agent of Ultimate Mart LLC d/b/a Pick N Save #8123, Richard M. Kostecki, agent, 2700 N. Ballard Rd., contingent upon approval from the Police Department.

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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[17-418](#)

"Class B" Beer/Liquor License - Change of Agent of Harvey Pierre Post No. 2778, d/b/a VFW Post 2778, Robert A. Boettcher, Agent, 1409 N. Harriman St., contingent upon approval from the Police Department.

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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[17-421](#)

Operator's Licenses

Attachments: [Operator's Licenses for 04-26-17 S&L.pdf](#)

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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[17-506](#)

"Class B" Beer/Liquor License Change of Agent of Santino LLC, d/b/a Houdini's Escape, Katelyn E. Jacobson, Agent, 1216 S. Oneida St., contingent upon approval from the Police Department.

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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[17-507](#)

Class "B" Beer/Class "C" Wine License Change of Agent of The Noodle Shop Co - Colorado Inc, d/b/a Noodles & Company, Scott R. Story, Agent, 3719 E. Calumet St., contingent upon approval from the Police Department.

Legislative History

4/26/17	Safety and Licensing Committee	recommended for approval
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17-519 Renewal Operator's Licenses

Attachments: [Renewal Operator's Licenses for 4-26-17 S & L.pdf](#)

Legislative History

4/26/17 Safety and Licensing recommended for approval
Committee

17-534 Class "B" Beer & "Class C" Wine License application of Tempest Coffee Collective LLC, Tyler A. Lonadier, Agent, 181 S. Riverheath Way, Suite 1100, contingent upon approval from all departments.

Attachments: [Tempest Coffee Collective application.pdf](#)

Legislative History

4/26/17 Safety and Licensing recommended for approval
Committee

17-579 Commercial Solicitor's License application of Demetrus Pickens, 733 E. Calumet Street.

Attachments: [Demetrus Pickens.pdf](#)

Legislative History

4/26/17 Safety and Licensing recommended for approval
Committee

3. MINUTES OF THE CITY PLAN COMMISSION**17-559** Request to approve Special Use Permit #1-17 for an automobile sales and display lot, at 524 North Clark Street (Tax Id #31-2-0697-00), as shown on the attached maps and per attached plan of operation, to run with the land subject to the conditions in the attached staff report (2/3 vote required)

Attachments: [StaffReport_VLPerformance_SUP_For04-24-17.pdf](#)

[PublicCommentLetter_Reynolds_VLPerformance_SUP.pdf](#)

[PublicCommentLetter_McNally_VLPerformance_SUP.pdf](#)

[Petition_VLPerformance_SUP#1-17_4-24-17.pdf](#)

Legislative History

4/24/17 City Plan Commission recommended for approval

17-560 Request to approve the Third Addition to Emerald Valley Final Plat as shown on the attached maps and subject to the conditions in the attached staff report

Attachments: [StaffReport_FinalPlat_ThirdAddtoEmeraldValley.pdf](#)

Legislative History

4/24/17 City Plan Commission recommended for approval

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE**5. MINUTES OF THE FINANCE COMMITTEE**[17-540](#)

Request to award the Scheig Center, Memorial Park - Plaza Redevelopment contract to Sommers Construction Company, Inc in the amount of \$94,371 with a contingency of 10% for a project not to exceed \$103,808.

Attachments: [Scheig Center Plaza Redevelopment.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

[17-548](#)

Request to approve the following 2017 Budget adjustment:

Stormwater Utility

Green Grove Plat Project	+\$6,925
Northland Pond Project	- \$6,925

General Fund - Public Works Department

Asphalt Reconstruction	+\$40,189
Sidewalk Reconstruction	- \$40,189

to reallocate funds to pay for stormwater and street improvement projects undertaken in cooperation with the Town of Grand Chute.

Attachments: [DPW Grand Chute Memo.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

- [17-549](#) Request to approve professional services contract with von Briesen & Roper, S.C. for Phase V services related to the financing of the Fox Cities Exhibition Center and approve the related 2017 Budget adjustment below:

Exhibition Center Capital Projects Fund

Consulting Services	+\$462,500
Debt Proceeds/Room Tax	+\$462,500

to provide funding for consulting services related to the financing of the Fox Cities Exhibition Center.

Attachments: [Memo to Finance Von Briesen Phase V Engagement Letter2.pdf](#)
[Engagement Agreement - Loan Documents and Closing.PDF](#)
[FCEC Professional Services Agreement, Phase IV 3-01-2016.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

- [17-552](#) Request to reject bid from Slusarek Construction, Inc in the amount of \$75,500 for the Arbutus Park Retaining Wall Project.

Attachments: [2017 Arbutus Park Retaining Wall \(Reject Bids\).pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

- [17-563](#) Request to award the 2017 Alicia Park Hillside Stabilization project contract to Radtke Contractors, Inc in the amount of \$39,000 with a contingency of \$8,000 for a project not to exceed \$47,000.

Attachments: [2017 Alicia Hillside Stabalization.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

- [17-577](#) Request to approve Contract Amendment/Change Order No. 1 to contract 73-16 for Unit Y-16 Arbutus Park Stormwater Lift Station Reconstruction to increase for the addition of retaining wall reconstruction to the scope of work in the amount of \$45,925.00 resulting in an increase to contingency from \$21,377.50 to \$25,877.50. Overall contract increased from \$235,152.50 to \$285,577.50.

Attachments: [Unit Y-16 Contract Amendment-Change Order No.1.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

[17-580](#)

Railroad Donation Agreement for trestles

Attachments: [RR - Donation Contract.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval
Alderson Lobner was excused at 5:45pm

[17-597](#)

Request to approve Contract Amendment/Change Order No. 1 to contract #3-17 for Unit H-17 Northland Pond Construction for Micro-Tunnel with an increase of \$658,945. Overall contract increase from \$2,724,224 to \$3,383,169.

Attachments: [Northland Av Contract Chg.pdf](#)

[Northland Av Map.pdf](#)

Legislative History

4/25/17 Finance Committee recommended for approval

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

7. MINUTES OF THE UTILITIES COMMITTEE

8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE

9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION

[17-571](#)

Approve Valley Transit Rules of Conduct and Exclusion Policy

Attachments: [Valley Transit Exclusion Policy Memo.pdf](#)

[Valley Transit Rules of Conduct and Exclusion Policy.pdf](#)

Legislative History

4/26/17 Fox Cities Transit Commission recommended for approval

10. MINUTES OF THE BOARD OF HEALTH

M. CONSOLIDATED ACTION ITEMS

N. ITEMS HELD

O. ORDINANCES

[17-618](#)

Ordinance 31-17

Attachments: [Ordinance going to Council 5-3-17.pdf](#)

- P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION
- Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO COMMITTEES OF JURISDICTION
- R. OTHER COUNCIL BUSINESS
- S. ADJOURN

Kami Lynch, City Clerk

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



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Meeting Minutes - Final Common Council

Tuesday, April 18, 2017

6:00 PM

Council Chambers

INFORMAL ORGANIZATIONAL MEETING

A. CALL TO ORDER

The meeting was called to order by Mayor Hanna at 6:01 p.m.

B. OATHS OF OFFICE

Clerk Lynch administered the Oath of Office to the Alderpersons of the odd-numbered Districts:

*District 1 - William Siebers
District 3 - Curt Konetzke
District 5 - Edward Baranowski
District 7 - Kathleen Plank
District 9 - Bob Baker
District 11 - Patti Coenen
District 13 - Kyle Lobner
District 15 - Keir Dvorachek*

C. ROLL CALL OF ALDERPERSONS

Present: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Chris Croatt, Mayor Timothy Hanna, Alderperson Bob Baker and Alderperson Keir Dvorachek

Excused: 2 - Alderperson Christine Williams and Alderperson Cathy Spears

D. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

City Clerk Lynch & City Attorney Walsh were present, all others were excused.

E. DISCUSSION ON RULES OF COUNCIL AND DEPARTMENT AND COMMITTEE FUNCTIONS

[17-528](#)

Rules of Council

Attachments:[Council Rules - ADOPTED 04-20-2016.pdf](#)[Council Rules - Redlined - Informal Org Mtg - 04-18-2017.pdf](#)

Discussion on the Rules of Council was held. There was no formal action taken.

[17-529](#)

Department and Committee Functions

Attachments:[Dept-Comm Functions - ADOPTED-FINAL 04-28-2016.pdf](#)[Dept-Comm Functions - Redlined - Informal Org Mtg - 04-18-2017.pdf](#)

Discussion on the Department & Committee Functions was held. There was no formal action taken.

F. DISCUSSION ON RESOLUTIONS SUBMITTED BY ALDERPERSONS[17-530](#)

Resolution #2-R-17 regarding Resolution tracking submitted by Alderperson Baranowski

Attachments:[Resolution #2-R-17 Referred To- Clerk and Org. Mtg.pdf](#)

The Council discussed the Resolution. Direction was provided to the City Clerk's office to come up with a few options to administer Resolution tracking. No formal action was taken.

G. OTHER COUNCIL BUSINESS**H. ADJOURN**

Alderperson Baranowski moved, seconded by Alderperson Coenen, that the meeting be adjourned at 8:07 p.m. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Chris Croatt, Mayor Timothy Hanna, Alderperson Bob Baker and Alderperson Keir Dvorachek

Excused: 2 - Alderperson Christine Williams and Alderperson Cathy Spears

Kami Lynch, City Clerk



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Meeting Minutes - Final Common Council

Wednesday, April 19, 2017

6:00 PM

Council Chambers

ORGANIZATIONAL MEETING

A. CALL TO ORDER

The meeting was called to order by Mayor Hanna at 6:01 p.m.

B. ROLL CALL OF ALDERPERSONS

Present: 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Mayor Timothy Hanna and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

C. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

Officers and Directors are not required at this meeting, though the following were present:

*City Clerk Lynch, City Attorney Walsh, Deputy City Attorney Behrens,
Director of Community & Economic Development Harkness,
Fire Chief Vander Wyst, Director of Finance Saucerman,
Health Officer Eggebrecht, Library Director Rortvedt, Police Chief Thomas,
Director of Public Works Vandehey,
& Valley Transit General Manager Mc Donald*

D. REPORT OF THE INFORMAL ORGANIZATIONAL COUNCIL MEETING

[17-528](#)

Rules of Council

Attachments: [Council Rules - ADOPTED 04-20-2016.pdf](#)
[Council Rules - Redlined - Informal Org Mtg - 04-18-2017.pdf](#)
[Council Rules - ADOPTED - 04-19-2017.pdf](#)

Alderperson Lobner moved, seconded by Alderperson Coenen, that the Council Rules be amended to allow 5 minutes of public participation per individual. Roll Call. Motion failed by the following vote:

Aye: 1 - Alderperson Kyle Lobner

Nay: 13 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Coenen moved, seconded by Alderperson Martin that the Rules of Council be amended (Rule 22. Committee Meetings) to state that no meetings be held on a Federal Election Day.

This Motion was withdrawn, no vote was taken.

Alderperson Coenen moved, seconded by Alderperson Plank, that the Rules of Council be amended (Rule 22. Committee Meetings) to remove the portion prohibiting Committee Meetings on Election Day. Roll Call. Motion failed by the following vote:

Aye: 4 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Patti Coenen and Alderperson Joe Martin

Nay: 10 - Alderperson William Siebers, Alderperson Ed Baranowski, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Baranowski moved, seconded by Alderperson Croatt, that the Council Rules be amended to include a Rule on Social Media Use: Members of the Council will understand the implications of their use of social media during any posted meeting as it pertains to State Statutes, Robert's Rules, and Council Rules. The Council Members will be self-policing in conjunction with the guidance of the City Attorney's Office to assure compliance in the use of social media during posted meetings. After some discussion the amendment was withdrawn. No action was taken on the amendment.

Alderperson Baranowski moved, seconded by Alderperson Konetzke that the Rules of Council be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

17-529

Department and Committee Functions

Attachments: [Dept-Comm Functions - ADOPTED-FINAL 04-28-2016.pdf](#)
[Dept-Comm Functions - Redlined - Informal Org Mtg - 04-18-2017.pdf](#)
[Dept-Comm Functions - ADOPTED - 04-19-2017.pdf](#)

Aldersperson Croatt moved, seconded by Aldersperson Lobner, that the Department and Committee Functions be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

17-530

Resolution #2-R-17 regarding Resolution tracking submitted by Aldersperson Baranowski

Attachments: [Resolution #2-R-17 Referred To- Clerk and Org. Mtg.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Dannecker, that the Resolution be approved and for staff to begin preparing a tracking system. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

E. RE-COMMITMENT TO THE CODE OF CONDUCT

17-531

Code of Conduct

Attachments: [Code of Conduct.pdf](#)

Aldersperson Croatt moved, seconded by Aldersperson Lobner, to recommit to the Code of Conduct. Roll Call. Motion carried by the following vote:

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

F. APPOINTMENT OF COMMITTEES & COMMITTEE CHAIRMEN

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

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

[17-598](#) 2017-2018 Committee Appointments

Attachments: [2017 Committee Appointments.pdf](#)

G. ELECTION OF COMMON COUNCIL PRESIDENT

The following were nominated as Council President:

*Edward Baranowski
Kathleen Plank
Curt Konetzke
Chris Croatt
William Siebers*

A secret ballot was cast narrowing Council President nominees to the following:

*Edward Baranowski
Curt Konetzke
Chris Croatt*

Another secret ballot was cast narrowing Council President nominees to the following:

*Curt Konetzke
Chris Croatt*

The final secret ballot declared Chris Croatt as the Council President with 9 votes.

H. ELECTION OF COMMON COUNCIL VICE-PRESIDENT

Motion by Alderperson Plank seconded by Alderperson Croatt to nominate Alderperson Konetzke as the Council Vice President by unanimous consent. Motion failed 12/2.

The following were nominated for Council Vice President:

Patti Coenen

Curt Konetzke

Kyle Lobner who withdrew the nomination.

A secret ballot was cast determining that Curt Konetzke is the Council Vice President with 11 votes.

I. ELECTION OF COMMON COUNCIL MEMBER TO THE CITY PLAN COMMISSION

The following members were nominated as the City Council Representative to the City Plan Commission:

Kyle Lobner- withdrew the nomination

Joe Martin

Motion by Alderperson Lobner, seconded by Alderperson Croatt to approve Joe Martin as the Representative to the City Plan Commission by unanimous consent. Motion carried 14/0.

J. OTHER COUNCIL BUSINESS**K. ADJOURN**

Alderperson Baranowski moved, seconded by Alderperson Croatt, that the meeting be adjourned at 7:05 p.m. Roll Call. Motion carried by the following vote:

Aye: 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Mayor Timothy Hanna and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Kami Lynch, City Clerk



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Meeting Minutes - Final Common Council

Wednesday, April 19, 2017

7:00 PM

Council Chambers

A. CALL TO ORDER

The meeting was called to order by Mayor Hanna at 7:15 p.m.

B. INVOCATION

The Invocation was offered by Alderperson Martin

C. PLEDGE OF ALLEGIANCE TO THE FLAG

D. ROLL CALL OF ALDERPERSONS

Present: 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Mayor Timothy Hanna and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

E. ROLL CALL OF OFFICERS AND DEPARTMENT HEADS

City Clerk Lynch, City Attorney Walsh, Deputy City Attorney Behrens, Director of Community & Economic Development Harkness, Fire Chief Vander Wyst, Director of Finance Saucerman, Health Officer Eggebrecht, Library Director Rortvedt, Police Chief Thomas, Director of Public Works Vandehey, Director of Utilities Shaw, & Valley Transit General Manager Mc Donald Director of Information Technology Fox, Director of Human Resources Matz, and Director of Parks Recreation & Facilities Gazza were excused.

F. PUBLIC PARTICIPATION

The following spoke on the items related to the keeping of chickens:

Raumie Miller, 15 Sunbeam Court

Tami DeRidder, 1120 N Union St

Dave Wallace, 1038 E Vine St

Mendee Monfils, 1226 S Perkins St

Mary Williams, 2100 N Douglas St

Ike Williams, 2100 N Douglas St

Hazel RianWanzeek, 615 S Weimar St

Marie-Claude Lebel, 713 S Schaefer St

Matt Lind, 314 S Badger Ave

Jay Vosters, 713 S Schaefer St

Tania Shook, 1901 N Edgewood Ave

Shannon Kenevan, 908 N Fox St

Nick Ross, 426 E Atlantic St

G. APPROVAL OF PREVIOUS COUNCIL MEETING MINUTES

[17-523](#)

Common Council Meeting Minutes of April 5, 2017

Attachments: [CC Minutes 4-5-17.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Croatt, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

H. BUSINESS PRESENTED BY THE MAYOR

[17-524](#)

Presentation of Library Volunteer of the Year Awards

This Report Action Item was presented

[17-525](#)

Presentation of Elks National Youth Week Proclamation

This Report Action Item was presented

[17-526](#)

Reappointment of James Smith and Kelly Sperl to the Board of Zoning Appeals

Attachments: [COMM REAPPOINTS BD OF ZONING APPEALS HPC 041917.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Konetzke, that the Reappointments to the Board of Zoning Appeals be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

[17-527](#)

Reappointment of Mary Duba and Thomas Werth to the Historic Preservation Commission

Attachments: [COMM REAPPOINTS BD OF ZONING APPEALS HPC 041917.pdf](#)

Aldersperson Coenen moved, seconded by Aldersperson Croatt, that the Reappointments to the Historic Preservation Committee be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

I. PUBLIC HEARINGS

[17-404](#)

Public Hearing for Rezoning #1-17

Attachments: [Public Hearing RZ #1-17.pdf](#)

The Public Hearing was held. No one spoke during the Public Hearing.

J. SPECIAL RESOLUTIONS

K. ESTABLISH ORDER OF THE DAY

[17-353](#)

Request to approve Rezoning #1-17 for the Third Addition to Emerald Valley, as shown on the attached maps, from AG Agricultural District to R-1B Single-Family District

Attachments: [StaffReport Rezoning #1-17 ThirdAddtoEmeraldValley.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Croatt, that the Rezoning #1-17 be approved. Roll Call. Motion carried by the following vote:

Aye: 14 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

[17-397](#)

Noise Variance Request - Fox River House

Attachments: [Noise Variance Request - Fox River House.pdf](#)
 [Schaff-Rattray Fox River House email.pdf](#)

Aldersperson Martin moved, seconded by Aldersperson Konetzke, that the Noise Variance Request be approved. Roll Call. Motion carried by the following vote:

Aye: 13 - Aldersperson Kathleen Plank, Aldersperson William Siebers, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Greg Dannecker, Aldersperson Christine Williams, Aldersperson Cathy Spears, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Excused: 1 - Aldersperson Bob Baker

Abstained: 2 - Aldersperson Patti Coenen and Mayor Timothy Hanna

[17-449](#)

Approval of Version "A" of Rules & Regulations and Chicken Permit Application for Keeping of Backyard Chickens

Attachments: [VERSION A - Original DRAFT Mar 2017.pdf](#)
 [Chicken Permit Application DRAFT.pdf](#)
 [Chicken Rules Regulations - Baranowski Amendments.pdf](#)

Aldersperson Baranowski moved, seconded by Aldersperson Croatt to Amend the Rules and Regulations as attached above - Baranowski Rules/Regulations Amendments.

Aldersperson Spears moved, seconded by Aldersperson Plank, that each section of Baranowski's proposed amendment be voted on separately, beginning with Section 1. Roll Call. Motion failed by the following vote:

Aye: 5 - Alderperson William Siebers, Alderperson Ed Baranowski, Alderperson Greg Dannecker, Alderperson Christine Williams and Alderperson Chris Croatt

Nay: 9 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Cathy Spears and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Spears moved, seconded by Alderperson Baranowski, that the amendments in Section 6. b. regarding coop square footage be approved. Roll Call. Motion failed by the following vote:

Aye: 4 - Alderperson William Siebers, Alderperson Ed Baranowski, Alderperson Cathy Spears and Alderperson Chris Croatt

Nay: 10 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Konetzke moved, seconded by Alderperson Spears, that Section 6. b./c. regarding the chicken run area being limited to an area not greater than twenty-four (24) square feet in total be approved. Roll Call. Motion carried by the following vote:

Aye: 9 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Matt Reed, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears and Alderperson Chris Croatt

Nay: 5 - Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Vered Meltzer, Alderperson Joe Martin and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Reed moved, seconded by Alderperson Spears, that the Rules & Regulations be amended to strike the neighborhood approval/objection provisions and instead change to neighborhood notification. The provisions relating to the appeals process for written objections would then be removed. Roll Call. Motion failed by the following vote:

Aye: 4 - Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed and Alderperson Joe Martin

Nay: 10 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Vered Meltzer, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Konetzke offered an amendment to the Rules & Regulations to include the keeping of goats and sheep and change the Rules & Regulations to read Farm Animal Keeping Rules & Regulations.

Mayor Hanna stated that this amendment is out of order and is not germane to the item before Council and this would potentially be a violation of the Open Meetings Law since it was not noticed that the Council would discuss sheep and goats.

Alderperson Konetzke challenged Mayor Hanna on this ruling. Alderperson Baranowski seconded the challenge. A voice notwithstanding vote was taken on the challenge. Motion carried 14/0 supporting the Mayor's ruling that the proposed amendment is not germane to the topic on the Council floor.

Alderperson Plank moved, seconded by Alderperson Spears, that the Rules & Regulations be amended to have appeals go before the Safety & Licensing Committee who will make a recommendation to the Common Council. This affects Section 2 and Section 10 of the Rules & Regulations. Roll Call. Motion carried by the following vote:

Aye: 12 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Nay: 2 - Alderperson William Siebers and Alderperson Joe Martin

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Coenen moved, seconded by Alderperson Martin, that the Rules & Regulations- Fees be amended to have the annual fee be \$6.00 per chicken.

Roll Call. Motion resulted in a tie by the following vote:

Mayor Hanna voted Aye breaking the tie and passing the Motion.

Aye: 8 - Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Christine Williams, Mayor Timothy Hanna and Alderperson Keir Dvorachek

Nay: 7 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Greg Dannecker, Alderperson Cathy Spears and Alderperson Chris Croatt

Excused: 1 - Alderperson Bob Baker

Alderperson Konetzke moved, seconded by Alderperson Meltzer, that the Fees be amended to be a flat \$24 annual fee, regardless of the number of chickens.

Roll Call. Motion failed by the following vote:

Since this amendment failed, a vote was taken on the \$6 per chicken fee (above).

Aye: 6 - Alderperson Curt Konetzke, Alderperson Patti Coenen, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Christine Williams and Alderperson Keir Dvorachek

Nay: 8 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Ed Baranowski, Alderperson Kyle Lobner, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Cathy Spears and Alderperson Chris Croatt

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

Alderperson Plank moved that the \$24 flat fee amendment be reconsidered, seconded by Alderperson Dannecker. A vote on the reconsideration was taken. Motion carried 9/5.

The annual fee for chickens is \$24 regardless of the number of chickens.

Aye: 8 - Alderperson Kathleen Plank, Alderperson Curt Konetzke, Alderperson Patti Coenen, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Greg Dannecker, Alderperson Christine Williams and Alderperson Cathy Spears

Nay: 6 - Alderperson William Siebers, Alderperson Ed Baranowski, Alderperson Kyle Lobner, Alderperson Joe Martin, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

17-449

Approval of Version "A" of Rules & Regulations and Chicken Permit Application for Keeping of Backyard Chickens

Attachments: [VERSION A - Original DRAFT Mar 2017.pdf](#)
[Chicken Permit Application DRAFT.pdf](#)
[Chicken Rules Regulations - Baranowski Amendments.pdf](#)

Motion by Coenen, seconded by Lobner that the Rules & Regulations on Chicken Keeping are approved as amended. Motion carried by the following vote:

Aye: 11 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams and Alderperson Keir Dvorachek

Nay: 3 - Alderperson Ed Baranowski, Alderperson Cathy Spears and Alderperson Chris Croatt

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

[16-1536](#)

Resolution #R-11-16 - Chickens

Attachments: [Resolution #R-11-16 - Chickens.pdf](#)
[VERSION A - Original DRAFT Mar 2017.pdf](#)
[Chicken Permit Application DRAFT.pdf](#)

Aldersperson Coenen moved, seconded by Aldersperson Meltzer, that the Resolution on the keeping of chickens be approved. Roll Call. Motion carried by the following vote:

Aye: 8 - Aldersperson William Siebers, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Nay: 6 - Aldersperson Kathleen Plank, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Greg Dannecker, Aldersperson Christine Williams and Aldersperson Cathy Spears

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

[17-492](#)

Approval of Chicken Ordinance 30-17, Referred back by Aldersperson Plank

Attachments: [Ordinance 30-17.pdf](#)

Aldersperson Lobner moved, seconded by Aldersperson Coenen, that Ordinance 30-17 be approved. A notwithstanding vote was taken to approve the ordinance, (not the recommended denial by the Board of Health). Roll Call. Motion carried by the following vote and the ordinance was approved:

Aye: 8 - Aldersperson William Siebers, Aldersperson Patti Coenen, Aldersperson Kyle Lobner, Aldersperson Matt Reed, Aldersperson Vered Meltzer, Aldersperson Joe Martin, Aldersperson Chris Croatt and Aldersperson Keir Dvorachek

Nay: 6 - Aldersperson Kathleen Plank, Aldersperson Curt Konetzke, Aldersperson Ed Baranowski, Aldersperson Greg Dannecker, Aldersperson Christine Williams and Aldersperson Cathy Spears

Excused: 1 - Aldersperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

L. COMMITTEE REPORTS

Balance of the action items on the agenda.

Aldersperson Lobner moved, Aldersperson Konetzke seconded, to approve the balance of the agenda. The motion carried by the following vote:

Aye: 14 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Abstained: 1 - Mayor Timothy Hanna

1. MINUTES OF THE MUNICIPAL SERVICES COMMITTEE

[17-440](#) Approve replacing colored crosswalks (across College Avenue at the intersections of State, Walnut, Division, Superior, Oneida, Morrison and Durkee) with standard concrete and continental style crosswalk markings.

Attachments: [College Avenue Crosswalks and Pavement Markings.pdf](#)

This Report Action Item was approved.

[17-442](#) Approve Inter-Governmental Agreements with the City of Menasha for initial street light installation costs and on-going maintenance and electrical power costs for street lights on Midway Road.

Attachments: [Street Lighting in the City of Menasha-Midway Rd at Oneida St.pdf](#)

This Report Action Item was approved.

[17-445](#) Anticipated award for P-17 Pavement Marking (Epoxy) Contract.

This Report Action Item was approved.

2. MINUTES OF THE SAFETY AND LICENSING COMMITTEE

3. MINUTES OF THE CITY PLAN COMMISSION

[17-354](#) Request to approve the Third Addition to Emerald Valley Preliminary Plat as shown on the attached maps and subject to the attached conditions

Attachments: [StaffReport_Preliminary Plat_ThirdAddtoEmeraldValley.pdf](#)

This Report Action Item was approved.

4. MINUTES OF THE PARKS AND RECREATION COMMITTEE

5. MINUTES OF THE FINANCE COMMITTEE

[17-463](#) Request to award the Wastewater Treatment Plant 2017 hardscape repairs project contract to Peters Concrete Co in the amount of \$156,820 with a contingency of 10% for a project total not to exceed \$172,500.

Attachments: [2017 Wastewater Hardscape Repairs.pdf](#)

This Report Action Item was approved.

[17-464](#) Request to award contract for engineering services to complete the City of Appleton hardscape assessments and master plan project to Patrick Engineering in the amount of \$60,000 with a contingency of 8% for a contract not to exceed \$64,800.

Attachments: [2017 Hardscapes Assessments and Master Plan.pdf](#)

This Report Action Item was approved.

[17-466](#) Request to approve Contract Amendment/Change Order No. 1 to contract 9-17 for Unit U-17 Sewer and Water Reconstruction No.2 to increase for additional sanitary, storm, water and traffic items added to scope of work by the City in the amount of \$64,082 resulting in a decrease to contingency from \$122,500 to \$74,003. Overall contract increased from 2,456,936 to 2,472,520.

Attachments: [Unit U-15 Contract Amendment-Change Order No.1.pdf](#)

This Report Action Item was approved.

[17-467](#) Request to approve Finance Committee Report 3-P-17 for Sanitary Laterals, Storm Laterals and Storm Main.

Attachments: [Report 3-P-17.pdf](#)

This Report Action Item was approved.

[17-468](#) Request to award contract for Unit D-17 sidewalk construction to Jim Fischer, Inc for a contract amount not to exceed \$240,000.

Attachments: [Unit D-17.pdf](#)

This Report Action Item was approved.

17-469

Request to approve recommendation to preclude access to Pierce Avenue for properties fronting on Pierce Court.

Attachments: [Pierce Court.pdf](#)

This Report Action Item was approved.

17-471

Request to approve the following 2017 Budget adjustment:

General Fund - Mayor's Office

Salaries	+\$48,235
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Fringe Benefits	+\$23,761
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General Fund - Community & Economic Development

Salaries	- \$48,235
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Fringe Benefits	- \$23,761
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to transfer personnel costs in the 2017 budget for Diversity Coordinator position to the Mayor's Office as approved by Council on April 5, 2017.

Attachments: Diversity Coordinator Mayor memo.pdf

This Report Action Item was approved.

17-479

Request to award the Water Treatment Facility 2017 hardscape repairs project contract to Northeast Asphalt, Inc in the amount of \$88,987 with a contingency of \$13,000 for a project total not to exceed \$101,987.

Attachments: 2017 Water Treatment Facility Hardscape Repairs.pdf

This Report Action Item was approved.

6. MINUTES OF THE COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

[17-456](#)

Request to approve recommended funding for 2017 sponsorship requests from the Fox Cities Regional Partnership, Appleton Downtown, Inc., and Habitat for Humanity as outlined in the attached documents

Attachments: [Sponsorships Memo to CEDC 4-12-17.pdf](#)
[Sponsorship Requests April 2017.pdf](#)
[Fox Cities Chamber Sponsorships.pdf](#)
[Talent Upload Fall 2016 Final Report.pdf](#)
[ADI Sponsorships.pdf](#)
[Habitat for Humanity Sponsorship.pdf](#)

This Report Action Item was approved.

7. MINUTES OF THE UTILITIES COMMITTEE

[17-435](#)

Award of 2017C Stormwater Consulting Services Contract for Spartan Drive Culverts and Stormwater Practices Sixty Percent (60%) Design and Permitting to Brown & Caldwell in an amount not to exceed \$202,767.

Attachments: [2017C Spartan Drive Award Memo to BC.pdf](#)

This Report Action Item was approved.

[17-436](#)

Preliminary Resolution 3-P-17 for Sanitary Laterals, Storm Laterals and Storm Sewer be adopted and refer the matter to the Finance Committee to determine the assessment rate.

Attachments: [Resolution 3-P-17.pdf](#)

This Report Action Item was approved.

[17-437](#)

Award Unit F-17, Sewer Cleaning & Televising to Northern Pipe, Inc. in an amount not to exceed \$247,500.

Attachments: [Unit F-17.pdf](#)

This Report Action Item was approved.

[17-443](#)

Award Engineering Services Contract for the North Reservoir Project to McMahon Associates, Inc. in the amount of \$34,871 with a 10% contingency of \$3,487 for a project total not to exceed \$38,358.

Attachments: [North Reservoir Project - Engineering Award.pdf](#)

This Report Action Item was approved.

- 8. MINUTES OF THE HUMAN RESOURCES & INFORMATION TECHNOLOGY COMMITTEE**
- 9. MINUTES OF THE FOX CITIES TRANSIT COMMISSION**
- 10. MINUTES OF THE BOARD OF HEALTH**
- M. CONSOLIDATED ACTION ITEMS
- N. ITEMS HELD
- O. ORDINANCES
- P. LICENSE APPLICATIONS AND COMMUNICATIONS REFERRED TO COMMITTEES OF JURISDICTION

Q. RESOLUTIONS SUBMITTED BY ALDERPERSONS REFERRED TO
COMMITTEES OF JURISDICTION

City of Appleton – Resolution #6-R-17

April 19, 2017

Submitted by: Alderperson Lobner – District 13

Referred to: Parks & Recreation Committee

WHEREAS Section 3-15 of the Appleton Municipal Code requires that an animal, when off of its owner's premises, shall be restrained so that the unprovoked animal does not run at large or become a public nuisance.

AND WHEREAS Section 3-14 of the Appleton Municipal Code requires the owner or caretaker of an animal to promptly remove and dispose of, in a sanitary manner, any excrement left or deposited by the animal upon public or private property.

AND WHEREAS Section 3-17 of the Appleton Municipal Code requires all incidents occurring in the City in which any animal bites or scratches a person or another animal, or is suspected of such, to be immediately reported to the Police Department by any person having knowledge of such incident.

AND WHEREAS the aforementioned ordinances and others not mentioned have been deemed sufficient for providing humans and pets an opportunity to operate and interact in a safe and sanitary manner in outdoor spaces including sidewalks, trails and other public spaces.

AND WHEREAS the same ordinances would allow an opportunity for humans and pets an opportunity to operate and interact in a safe and sanitary manner in parks if not for Section 13-5, subsection N of the Appleton Municipal Code, which prohibits dogs in all parks except on trails.

THEREFORE BE IT RESOLVED that the City of Appleton shall repeal Municipal Code Section 13-5, subsection N.

City of Appleton – Resolution #7-R-17

April 19, 2017

Submitted by: Alderperson Baranowski – District 5

Referred to: Attorney's Office, Finance Committee

WHEREAS, social media plays an important role in the ability to communicate with the public, it can infringe on open meeting laws,

THEREFORE, the City Attorney review and draft a policy that governs the proper use of social media during posted City meetings.

R. OTHER COUNCIL BUSINESS

S. ADJOURN

Alderperson Baranowski moved, seconded by Alderperson Croatt, that the meeting be adjourned at 9:40 p.m. Roll Call. Motion carried by the following vote:

Aye: 15 - Alderperson Kathleen Plank, Alderperson William Siebers, Alderperson Curt Konetzke, Alderperson Ed Baranowski, Alderperson Patti Coenen, Alderperson Kyle Lobner, Alderperson Matt Reed, Alderperson Vered Meltzer, Alderperson Joe Martin, Alderperson Greg Dannecker, Alderperson Christine Williams, Alderperson Cathy Spears, Alderperson Chris Croatt, Mayor Timothy Hanna and Alderperson Keir Dvorachek

Excused: 1 - Alderperson Bob Baker

Kami Lynch, City Clerk



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

OFFICE OF THE MAYOR

Timothy M. Hanna
100 North Appleton Street
Appleton, Wisconsin 54911-4799
(920) 832-6400 FAX (920) 832-5962
e-mail: mayor@appleton.org

TO: Members of the Common Council

FROM: Mayor Timothy Hanna

DATE: April 28, 2017

RE: Committee Reappointment

It is with pleasure that I present the following reappointment for your confirmation at the May 3 Common Council meeting. Per Resolution #8-R-14, attendance has been included.

POLICE AND FIRE COMMISSION

Ronald Dunlap	5-year term	94% attendance
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NOTICE OF PUBLIC HEARING ON SPECIAL ASSESSMENTS

(Preliminary Resolution 3-P-17)

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

SANITARY LATERALS, STORM LATERALS AND STORM MAIN

Calumet Street from Oneida Street to Jefferson Street
Lincoln Street from Olde Oneida Street to Madison Street
Oneida Street from Calumet Street to Olde Oneida Street
Oneida Street from 441 to Calumet Street
Drew Street from Glendale Avenue to Pershing Street
Kamps Avenue 200' west of Douglas Street to Douglas Street
Lynndale Drive from Leonard Street to Everett Street
Marquette Street from Harriman Street to Oneida Street
Reeve Street from Linwood Avenue to Winnebago Street
Sanders Street 400' north of Verbrick Street to Seymour Street
Summer Street from Oneida Street to Lawe Street
Winnebago Street from Linwood Avenue to Badger Avenue

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

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

You are further notified that the Common Council will hear all persons interested or their agents or attorneys concerning matters contained in the preliminary resolution authorizing such improvements and assessments at a regular meeting of the Common Council to be held on **May 3, 2017, at 7:00 P.M.** or as soon thereafter as can be heard, in the Council Chambers at the City Hall, 100 North Appleton Street, Appleton, Wisconsin. All objections will be considered at said hearing and thereafter the amount of the assessments will be finally determined.

April 13, 2017

RUN: April 19, 2017

KAMI LYNCH, City Clerk

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

RESOLUTION 3-P-17

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

WHEREAS, the Common Council of the City of Appleton, Wisconsin, held a Public Hearing at the Council Chambers in City Hall at 7:00 P.M. on the 3rd day of May, 2017, for the purpose of hearing all interested persons concerning the proposed improvements and construction in the following streets or portion of streets:

SANITARY LATERALS, STORM LATERALS AND STORM MAIN

Calumet Street from Oneida Street to Jefferson Street
Lincoln Street from Olde Oneida Street to Madison Street
Oneida Street from Calumet Street to Olde Oneida Street
Oneida Street from 441 to Calumet Street
Drew Street from Glendale Avenue to Pershing Street
Kamps Avenue 200' west of Douglas Street to Douglas Street
Lynndale Drive from Leonard Street to Everett Street
Marquette Street from Harriman Street to Oneida Street
Reeve Street from Linwood Avenue to Winnebago Street
Sanders Street 400' north of Verbrick Street to Seymour Street
Summer Street from Oneida Street to Lawe Street
Winnebago Street from Linwood Avenue to Badger Avenue

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

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

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

S/TIMOTHY HANNA (Mayor)

Adopted: May 3, 2017
Published: May 8, 2017

Attest: Kami Lynch (City Clerk)

April 18, 2017

Paula Vandehey
Director of Public Works
City of Appleton
100 N. Appleton St.
Appleton, Wisconsin 54911

Dear Ms. Vandehey,

I am writing to request a reduction in parking fees for Appleton students who are taking their advance placement (AP) tests at the Radisson Paper Valley. Ideally, such reduction would start this spring and continue for the next five years.

Each spring, high school students from all over Appleton gather to take their AP tests, which allow them to get college credit for taking more challenging high school courses. We have tried many different locations throughout the area, but have been very happy with how accommodating the Radisson Paper Valley has been to the rather unique needs of this event. The only hitch is the parking. Downtown, being centrally located, is fantastic, but there is nowhere to park without paying. Although parking fees are reasonable, we do not want to discourage any students from taking these tests for any reason.

It would be very helpful if parking fees for these bright, young students could be waived or reduced for the next five years. It would be one less thing to worry about on what is often a very stressful experience.

If you have any questions or concerns, please don't hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Cassie Guilbeault', written in dark ink.

Cassie Guilbeault
Appleton Area School District AP Coordinator

CITY OF APPLETON/TOWN OF GRAND CHUTE

Lanser Lane and Green Grove Plat

INTERGOVERNMENTAL AGREEMENT

FOR PULVERIZING, ASPHALT PAVING & STORM SEWER PROJECT

DATE: April 6, 2017

PROJECT TITLE: Lanser Lane and
Green Grove Plat

The Town of Grand Chute, hereinafter called the "Town", through its undersigned duly authorized officers or officials, hereby enters into an agreement with the City of Appleton, through its Public Works Department, hereinafter called the "City", to pulverize, asphalt pave and install storm sewer in the Green Grove Plat and asphalt reclamation on Lanser Lane.

PROPOSED IMPROVEMENT

Pulverize, asphalt pave and install storm sewer in the Green Grove Plat and asphalt reclamation on Lanser Lane in 2017.

COST ESTIMATE AND PARTICIPATION

PROJECT	TOWN SHARE	CITY SHARE
Lanser Road		
Pavement		\$ 2,626.25
Green Grove Plat		
Storm Sewer	\$ 531,570.72	\$ 6,924.84
Pavement	\$ 426,807.29	\$ 37,562.64
TOTAL COST		\$ 47,113.73

TERMS AND CONDITIONS:

1. The Town of Grand Chute will be the lead agency for this project.
2. All plans and specifications for the improvements will be provided for City of Appleton's records.
3. The project cost in the agreement is a fixed amount for the City of Appleton.

City of Appleton

Attest:

Printed Name:

By:

Timothy M. Hanna, Mayor

Attest:

Printed Name:

By:

Kami Scofield, City Clerk

Provision has been made to pay the liability
that will accrue under this contract.

Approved as to form:

Anthony D. Saucerman, Finance Director

James P. Walsh, City Attorney

Town of Grand Chute

Attest:

Printed Name:

By:

David A. Schowalter, Town Chairman

Attest:

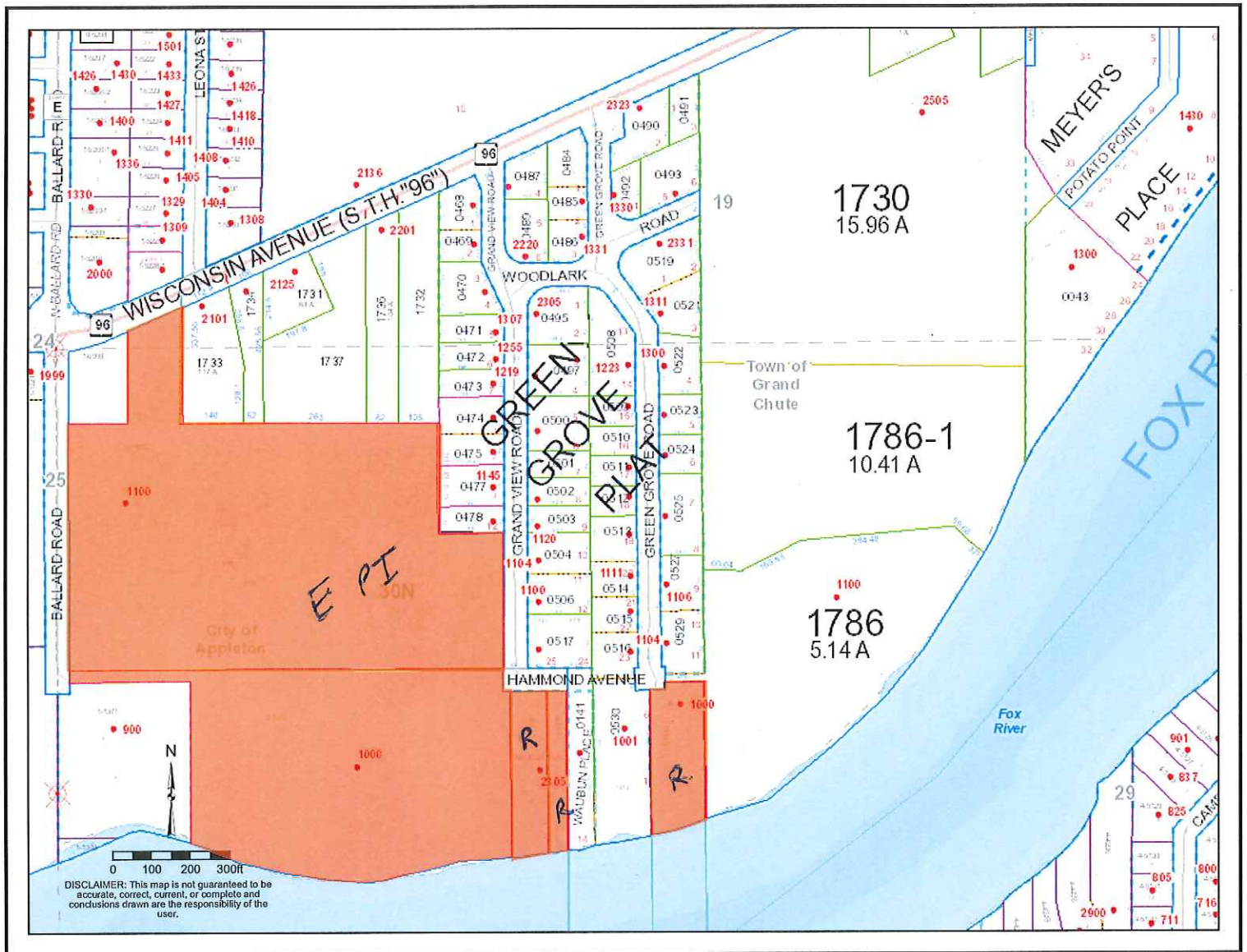
Printed Name:

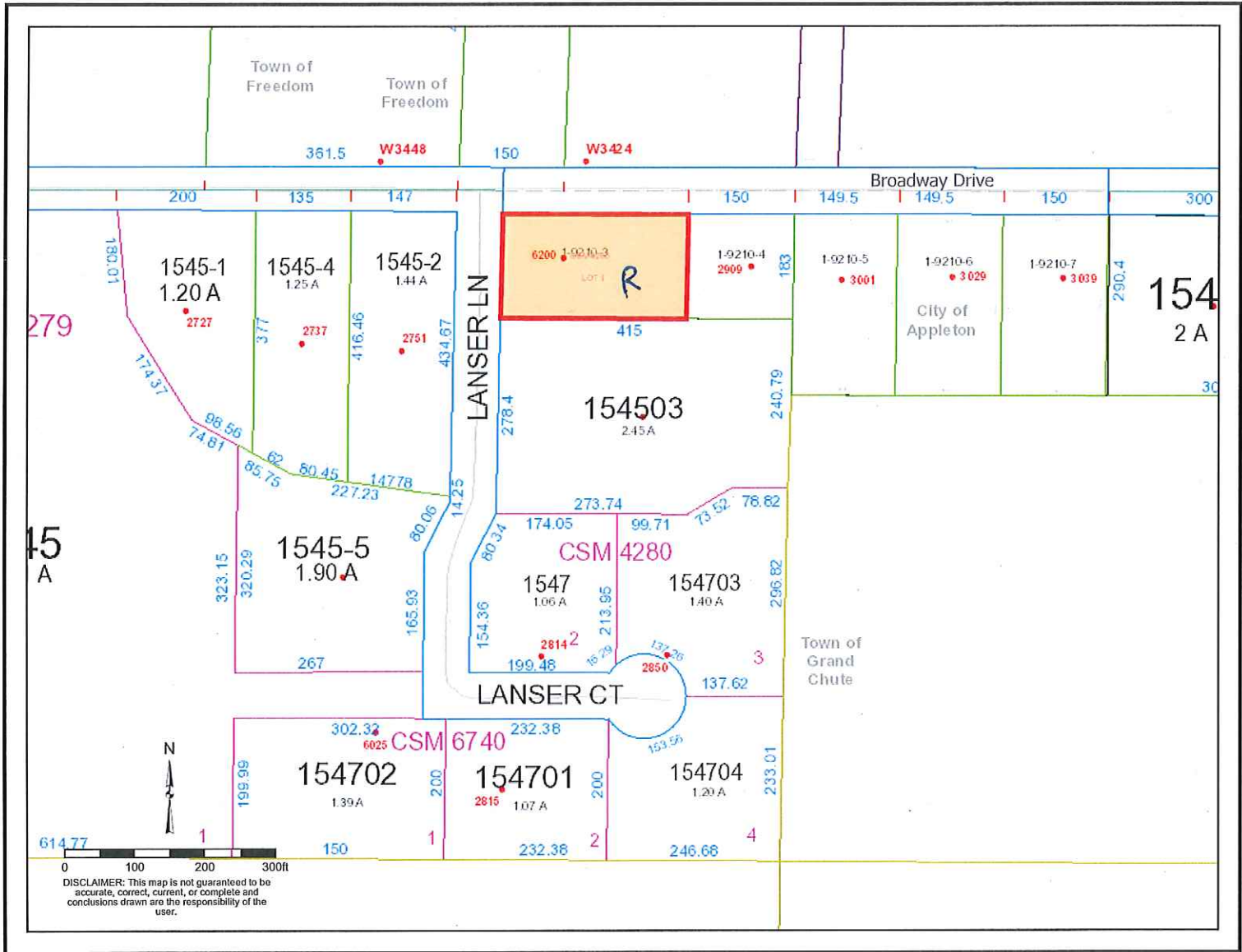
By:

Karen L. Weinschrott, Town Clerk

Approved as to form:

Charles D. Koehler
Attorney for the Town of Grand Chute





March 23, 2017

Ms. Paula VandeHey
Director of Public Works, City of Appleton
100 N. Appleton St.
Appleton, WI 54911

Dear Ms. VandeHey,

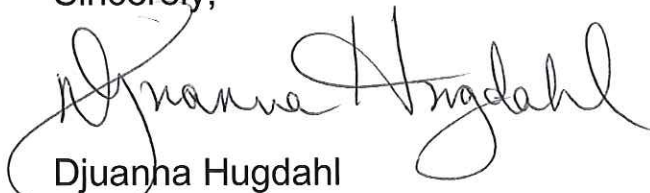
At the request of the American Cancer Society in regards to their special event of the Sole Burner 5K; held on May 13, Downtown Appleton would like to host a Sidewalk Sale that day from 10 a.m. until 2 p.m.

We are requesting a Sidewalk Occupancy Permit to cover the amenity strip from the 600 W. College Avenue block through 300 E. College Avenue block, on behalf of the businesses.

Stores will set up in the amenity strip beginning at 9 a.m. and will remove goods and supplies by 3 p.m. We will not require any street closure.

Thank you for your consideration.

Sincerely,



Djuanna Hugdahl
Event Coordinator
Appleton Downtown Inc.

Cc: City Clerk office

April 10, 2017

Paula VandeHey, Director
City Of Appleton – Department of Public Works
100 N. Appleton Street
Appleton, WI 54911

Dear Ms. VandeHey,

At the request of Willems Marketing, Mile of Music 5 and the downtown businesses; ADI, along with Creative Downtown Appleton Inc. would like to host a Sidewalk Sale on Saturday, August 5 from 10 a.m. to 6 p.m. The Sidewalk Sale would occur alongside the Downtown Appleton Farm Market.

We are requesting a Sidewalk Occupancy Permit to cover the amenity strip from the 600 W. College Avenue through 300 E. College Avenue.

Stores will set up in the amenity strip beginning at 10 a.m. and will remove goods and supplies shortly after 6 p.m. We will not require any street closures for the Sidewalk Sale.

Thank you for your consideration.

Sincerely,



Djuanna Hugdahl
Event Coordinator
Appleton Downtown Inc.

January 18, 2017

Ms. Paula VandeHey
Director of Public Works - City Of Appleton
100 N. Appleton St.
Appleton, WI 54911

Dear Ms. VandeHey:

As a special feature of "Art on the Town", Creative Downtown Appleton Inc. would like to offer the following different themes and are requesting a Sidewalk Occupancy Permit to cover the sidewalk area. Listed below are the different dates and themes for 2017:

May 19 – "Celebrate Culture" – working with the Appleton Public Library

June 16 – "Hidden Textures"

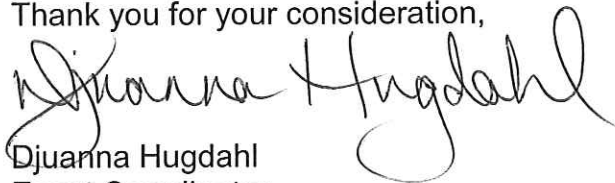
July 21 – "Chalk on the Town" – Businesses and individuals reserve a square or two of sidewalk, chalking begins at 1 p.m. and ends by 9 p.m. Businesses will have the first rights to sidewalk in front of their building.

August 18 - "Paint on the Town" – Businesses and individuals will paint on easels outside of participating venues, encouraging individuals to add to the painting.

September 15 – "Park-ing Day" – We are hoping to work with the Food Truck Rally again and possibly offering some additional seating that night.

We are requesting a Sidewalk Occupancy Permit to cover the sidewalk area from 600 W. College Avenue through 300 E. College Avenue in downtown, from 1-9 p.m.

Thank you for your consideration,



Djuanna Hugdahl
Event Coordinator
Appleton Downtown Inc.
djuanna@appleondowntown.org

ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning May 1 20 17
ending June 30 20 17

TO THE GOVERNING BODY of the: ☐ Town of
☐ Village of
☒ City of APPLETON

County of OUTAGAMIE Aldermanic Dist. No. 15 (if required by ordinance)

1. The named ☐ INDIVIDUAL ☐ PARTNERSHIP ☒ LIMITED LIABILITY COMPANY
☐ CORPORATION/NONPROFIT ORGANIZATION

hereby makes application for the alcohol beverage license(s) checked above.

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): AADYA LLC,

PATEL MAHENDRA T. 2333 W WISCONSIN AVE, APPLETON

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the name, title, and place of residence of each person.

Title Name Home Address Post Office & Zip Code WI-54914
President/Member OWNER MAHENDRA 2333 W WISCONSIN AVE APPLETON

Vice President/Member

Secretary/Member

Treasurer/Member

Agent MAHENDRA PATEL

Directors/Managers

3. Trade Name CALUMET PANTRY Business Phone Number 920 882 8405

4. Address of Premises 319 E CALUMET ST, APPLETON Post Office & Zip Code 54915

5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? ☐ Yes ☒ No

6. Is the applicant an employee or agent of, or acting on behalf of anyone except the named applicant? ☐ Yes ☒ No

7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? ☐ Yes ☒ No

8. (a) Corporate/limited liability company applicants only: Insert state _____ and date _____ of registration.

- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? ☐ Yes ☒ No

- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? ☐ Yes ☒ No

(NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) 2800 S.B.F.T - BLOCK BUILDINGS & COMPLEX

10. Legal description (omit if street address is given above):

11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☒ Yes ☐ No

- (b) If yes, under what name was license issued? KALUMET PANTRY, INC

12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5) before beginning business? [phone 1-800-937-8864] ☒ Yes ☐ No

13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] ☒ Yes ☐ No

14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

SUBSCRIBED AND SWORN TO BEFORE ME

this 24 day of MARCH

Cathy Bolwerk CATHY BOLWERK
(Clerk/Notary Public, State of Wisconsin)
My commission expires My Commission Expires January 23, 2021

MT Patel
(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)

(Officer of Corporation/Member/Manager of Limited Liability Company/Partner)

(Additional Partner(s)/Member/Manager of Limited Liability Company if Any)

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>32417</u>	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton Liquor License Questionnaire

1. Name of Applicant: PATEL MAHENDRA
2. Name of Business: CALUMET PANTRY
3. Address of Business: 319 E CALUMET ST, APPLETON, WI-54915
4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No X
AND/OR been convicted of a felony? Yes _____ No X
If yes to either question, please explain in detail: _____

5. List all partners, shareholders or investors. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>MAHENDRA</u>	<u>T</u>	<u>PATEL</u>	<u>[REDACTED]</u>
First name	Initial	Last name	Date of Birth
_____	_____	_____	____/____/____
First name	Initial	Last name	Date of Birth
_____	_____	_____	____/____/____
First name	Initial	Last name	Date of Birth
_____	_____	_____	____/____/____
First name	Initial	Last name	Date of Birth
_____	_____	_____	____/____/____

6. Name of person/corporation you are buying the premises and equipment from?

Name: DEEPAK - DOGRA

First name Initial Last name

Address: 3090 SAWYER CREEK DR

City, State, Zip: OSHKOSH WI-54904

7. What was the previous name and nature of the business operating at this location?

CALUMET PANTRY

CONVENIENCE STORE

8. Are alcohol sales an existing use in this building? Yes X No _____
If no, When did the operation cease? _____ months ago.

9. Are alcohol sales a new use in this building? Yes _____ No X
If yes, please contact the Community Development Department at 832-6468 to obtain a
Special Use Permit.

10. Is your primary business restaurant? Yes _____ No X

11. Seating capacity: Inside N/A Outside N/A

12. Operating hours: 9 AM TO 9 PM SEVEN DAYS

13. Number of floor personnel 2 Number of door checkers _____

14. In general, state the size, design and type of the proposed establishment and the
operational details.

INDEPENDENT BUILDING WITH
CONVENIENCE STORE OPERATION HOURS
9 AM TO 9 PM SEVEN DAYS A WEEK

3/24/17
Date

M.T. Patel
Signature

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

AUXILIARY QUESTIONNAIRE ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
PATEL		MAHENDRA		THE BHANDAS	
Home Address (street/route)		Post Office	City	State	Zip Code
2333 W WISCONSIN AVE			APPLETON	WI	54914
Home Phone Number		Age	Date of Birth	Place of Birth	
920 266 6326		55	[REDACTED]	INDIA	

The above named individual provides the following information as a person who is (check one):

Applying for an alcohol beverage license as an **individual**.

☐ A member of a **partnership** which is making application for an alcohol beverage license.

☒ MAHENDRA PATEL of AADYA, LLC
(Officer/Director/Member/Manager/Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? FIVE YEARS
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ☐ Yes ☒ No
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? ☐ Yes ☒ No
If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? ☐ Yes ☒ No
If yes, identify.
- Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? ☐ Yes ☒ No
If yes, identify.

(Name, Location and Type of License/Permit)

(Name of Wholesale Licensee or Permittee)

(Address By City and County)

6. Named individual must list in chronological order last two employers.

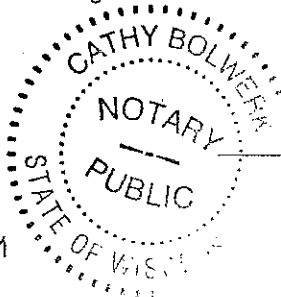
Employer's Name	Employer's Address	Employed From	To
Indica grocers	2333 W Wisconsin Ave	6/1/2012	contin.
Employer's Name	Employer's Address	Employed From	To

The undersigned, being first duly sworn on oath, deposes and says that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application.

Subscribed and sworn to before me

this 24 day of March, 20 17

Cathy Bolwerk
(Clerk/Notary Public)



MT Patel

(Signature of Named Individual)

My commission expires CATHY BOLWERK
Notary Public, State of Wisconsin
My Commission Expires January 23, 2021



Printed on
Recycled Paper

**SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT
ORGANIZATION OR LIMITED LIABILITY COMPANY**

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of: ☐ Town
☐ Village of APPLETON County of OUTAGAMIE
☒ City

The undersigned duly authorized officer(s)/members/managers of AADYA LLC
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

CALUMET PANTRY

(trade name)

located at 319 E CALUMET ST, APPLETON, WI-54915

appoints MAHENDRA PATEL

(name of appointed agent)

2333 W WISCONSIN AVE, APPLETON WI-54914

(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

☒ Yes ☒ No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

AADYA LLC, DBA CALUMET PANTRY

Is applicant agent subject to completion of the responsible beverage server training course? ☐ Yes ☒ No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? FIVE YEARS

Place of residence last year 2333 W WISCONSIN AVE, APPLETON WI-54914

For: AADYA LLC

(name of corporation/organization/limited liability company)

By: M.T. Patel

(signature of Officer/Member/Manager)

And:

(signature of Officer/Member/Manager)

ACCEPTANCE BY AGENT

I, MAHENDRA PATEL, hereby accept this appointment as agent for the
(print/type agent's name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

M.T. Patel

(signature of agent)

3/24/17

(date)

Agent's age

2333 W WISCONSIN AVE, APPLETON WI-54914

(home address of agent)

Date of birth

**APPROVAL OF AGENT BY MUNICIPAL AUTHORITY
(Clerk cannot sign on behalf of Municipal Official)**

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(date) (signature of proper local official) (town chair, village president, police chief)

Operator's Licenses for 4/26/17 S & L

Approved

Alex Abeyta	409 W. Valley Road
Shakeel Ahmad	3314 W. Spencer Street
Ahsan Ali	1033 Manitowoc Road, Menasha
Lynn B. Bennington	1324 N. Perkins Street, #5
Carolyn J. Cairns	139 Plummer Court, Neenah
Mercy M. Cave	1118 E. Greenbriar Drive
Jesse A. Chase	1426 N. Rankin Street
Cristy A. Coe	1400 W. Weiland Lane
Stephen M. Griffith	405 E. 14 th Street, Kaukauna
Amanda J. Grode	1140 Nuthatch Lane, Neenah
Taya K. Guerin	510 Valley Road, Menasha
AnnaMarie J. Hatton	4717 Gardenwood Lane
Angelika R. Heilman	633A State Street, Combined Locks
Andrew L. Hietpas	326 Cleveland Avenue, Little Chute
Sajid Hussain	1033 Manitowoc Road, Menasha
Whitney E. Jensen	2145 W. Seneca Drive
Heather A. Keddell	1236 E. Glendale Avenue
Heidi M. LaGrow	2915 W. Fourth Street, #4
Liubov Letunovskaya	13 Oriole Court
Jared C. Mayer	1509 N. Mason Street
Olivia Meese	1723 S. Sundown Lane
Joseph M. Montour	115 E. 1 st Avenue, #10
Annie Ngo	5356 Pleasant Way
Jalpa N. Patel	4705 W. Prairie Song Lane
Khrysta M. Plamann	2209 E. Calumet Street
Shanika R. Plante	618 E. Pacific Street
Nicole C. Powell	5631 Grandview Road, Larsen
Rebecca A. Powell	1350 E. Primrose Lane
Claudia M. Rohr	807 Heather Court, Neenah
Michael J. Rongo	924 W. 5 th Street, #2
Brittany M. Sack	1407 N. Appleton Street
Darion M. Schroeder	3215 N. Ballard Road
Nathaniel R. Severin	105 S. Lee Street
Jennie L. Stage	4830 N. Stargaze Drive
Cassandra Thomas	2727 Crooks Avenue, Kaukauna
Mark E. Turner	1515 E. College Avenue
Adrianna M. VandeCorput	604 N. Main Street, Black Creek
Shayna VanDenBloomer	507 ½ W. Winnebago Street
Matthew K. Vorwald	855 S. Timmers Lane
Kai Vue	1603 W. Spencer Street
Sara M. Wesner	2800 N. Park Drive Lane, #1
Steven R. Wichelt	400 ½ W. Whitney Street, Kaukauna
Leah A. Williams	2510 Elmwood Court
Ping Xiong	118 S. Joseph Street, #4
Vong Xiong	212 Scott Avenue, Oshkosh
Alexandra E. Martinez	2707W. 4 th Street

Sara R. Klongerbo
Adela Hernandez
Christy M. Landry
Irineo Medina
Michael E. Jarvis
Kyle R. Halida
Alexandra P. Safranski
Candace L. Preston

1645 E. Harding Drive, #8
212 S. Story Street
501 N. Chestnut Avenue, Green Bay
710 N. Fernmeadow Drive
819 S. West Avenue
812 W. Elsie Street
113 ½ S. Railroad
134 Taft Street, Green Bay

Renewal Operator's Licenses for 4/26/17 S & L

Approved

Lynn A. Bellile	1450 N. McCarthy Rd, #2
Gary M. Bowman	1537 E. Roeland Avenue
Joseph R. Brown	1138 Southfield, Menasha
Dawn Carlson	1821 S. Schaefer St., #E
Christina C. Cole	1425 ½ A W. Kamps Avenue
Lori A. Endries	227 Wisconsin Avenue, Brillion
Kathy A. Fay	1141 Northfield Court, Menasha
Gabriel G. Gietman	405 E. 20 th Street, Kaukauna
Joshua J. Jones	1502 Tri Park Way, #15
Thomas J. Kern	957 London Street, Menasha
Mary S. Kuske	1501 E. Taft Avenue
Xian Y. Li	1620 Tri Park Way, #8
Brian Lundgren	220 Fury Lane, Neenah
Roger M. Maloney	1605 N. Alvin Street
Jason G. Mazanec	240 E. Glendale Avenue
Steve A. McNiesh	36 Tracy Court
Kelsey M. Micke	505 Buchanan Road, Kaukauna
Timothy J. Miller	1030 W. Elm Drive, #10, Little Chute
Thomas J. Nichol	3613 Edgemere Drive
Kristoffer D. Olson	35 Welcome Circle
Jennifer A. Peterman	819 W. Roberts Avenue
Heather L. Riehl	2524 S. Kernan Avenue
Lora A. Rode	950 Skyview Avenue, Little Chute
Christine E. Schadt	1515 Greendale Street, Menasha
Casey R. Schmidt	30 Welcome Circle
Todd R. Schmidt	1532 N. Blossom Drive
Jenny M. Schock	1127 W. Packard Street
Mathew J. Susa	2511 N. Mason Street
Pheng Vue	1603 W. Spencer Street
Scott J. Waananen	2517 E. Peter Street
Jennifer A. Williamson	1626 N. Nicholas Street
Suzanne M. Wolkiewicz	2221 N. Ballard Road, #20
Xi Lin	W6016 Cameo Court
Dana L. Ziegenhagen	5771 State Road, 91, Oshkosh
Kristen J. Zielie	1618 W. Evergreen Drive, #11

ORIGINAL ALCOHOL BEVERAGE RETAIL LICENSE APPLICATION

Submit to municipal clerk.

For the license period beginning May 20 17
ending JUNE 30 20 17

TO THE GOVERNING BODY of the: ☐ Town of } Appleton
☐ Village of }
☒ City of }

County of Oshkosh Aldermanic Dist. No. _____ (if required by ordinance)

1. The named ☐ INDIVIDUAL ☐ PARTNERSHIP ☒ LIMITED LIABILITY COMPANY
☐ CORPORATION/NONPROFIT ORGANIZATION

hereby makes application for the alcohol beverage license(s) checked above.

2. Name (individual/partners give last name, first, middle; corporations/limited liability companies give registered name): Tempest Coffee Collective

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the name, title, and place of residence of each person.

Title	Name	Home Address	Post Office & Zip Code
President/Member	<u>Larry Lonadner</u>		
Vice President/Member	<u>Lucy Lonadner</u>		
Secretary/Member	<u>Chrissy W. Fickell</u>		
Treasurer/Member	<u>Stephen W. Fickell</u>		
Agent	<u>Tyler A. Lonadner</u>		
Directors/Managers			

3. Trade Name Tempest Coffee Collective Business Phone Number 920 939 2153
4. Address of Premises 181 S Riverheath Way Post Office & Zip Code 54915

5. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? ☒ Yes ☐ No
6. Is the applicant an employee or agent of, or acting on behalf of anyone except the named applicant? ☒ Yes ☐ No
7. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? ☐ Yes ☒ No
8. (a) Corporate/limited liability company applicants only: Insert state _____ and date _____ of registration.
(b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? ☐ Yes ☒ No
(c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? ☒ Yes ☐ No

(NOTE: All applicants explain fully on reverse side of this form every YES answer in sections 5, 6, 7 and 8 above.)

9. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) See blue print drawing 2100 sq ft building 1200 sq ft patio

10. Legal description (omit if street address is given above): 1 level restaurant with storage in the back

11. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☐ Yes ☒ No
(b) If yes, under what name was license issued?

12. Does the applicant understand they must file a Special Occupational Tax return (TTB form 5630.5) before beginning business? [phone 1-800-937-8864] ☒ Yes ☐ No

13. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] ☒ Yes ☐ No

14. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

SUBSCRIBED AND SWORN TO BEFORE ME

this 17 day of APRIL, 20 17

(Clerk/Notary Public)

My commission expires 1-15-21

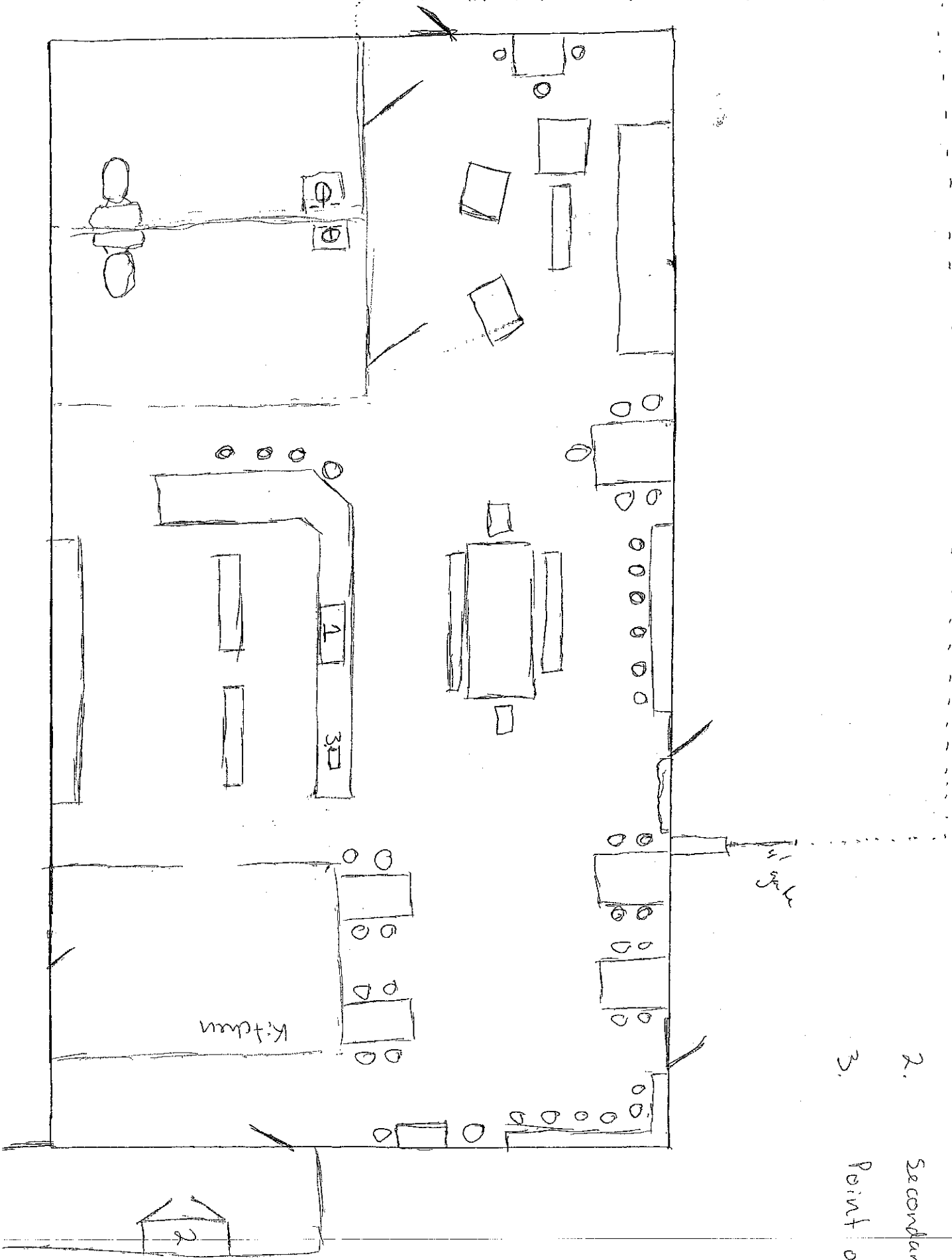
NOTARY PUBLIC
JOHN J. KOSMER
OFFICE OF CORPORATION/MEMBER/MANAGER OF LIMITED LIABILITY COMPANY/PARTNER/INDIVIDUAL

(Additional Partner(s)/Member/Manager of Limited Liability Company If Any)

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>4-17-17</u>	Date reported to council/board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

1. Primary/warehouse Storage
2. Secondary Storage
3. Point of Sale





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

**LICENSE APPLICATION for
COMMERCIAL SOLICITATION LICENSE**

FEES ARE NON-REFUNDABLE

Date Rec'd 4/11/17

☐ Company License

\$200.00 Acct. 11030.4317

☒ Additional Employee License

\$ 50.00 Acct. 11030.4317

☒ Investigation fee

\$ 7.00 Acct. 108.7359

Total fee paid \$ 57

Receipt 4619157

☒ Original Application

☐ Renewal - License # _____

6 MONTH LICENSE:

APRIL 1 TO SEPTEMBER 30 & OCTOBER 1 TO MARCH 31

SECTION 1 - COMPANY INFORMATION - Answer all questions completely. Please PRINT clearly

Name of Company Holding License

T & J FRAGRANCE BODY OILS

Company Street Address

733 E. CALUMET st

City

Appleton

State

WI

Zip

54915

Company Telephone Number

Type of Sales:

☐ Door to Door Solicitation

☒ Specific Location in City walking around city streets

Type of Merchandise or Services - List specific product(s) or actual services being provided:

COLONGES, T-SHIRTS, SOCKS, SHOES

Contact Phone Number while in the City of Appleton

THIS INFORMATION MUST BE PROVIDED

SECTION 2 - EMPLOYEE INFORMATION - Every employee over 18 years of age is required to complete an application form. If employees are minors, you must show proof of State Street Trade Permit pursuant to Wisconsin Act 113.

Name of Employee (Last, First, MI)

PICKENS, DEMETRUS

Are you the main employee contact for this company?

Yes

☒ No

Employee Home Street Address

733 E. CALUMET st

City

Appleton

State

WI

Zip

54915

Driver's License Number

State licensed in

WI

Date of Birth

Sex

M

SECTION 3 - VEHICLE IDENTIFICATION - Vehicle to be used for solicitation purposes

Make of Vehicle

CHEV MONTE CARLO

Year

2007

Color

Plum

License Plate No.

986-VFH

State Licensed in

WI

SECTION 4 - PENALTY NOTICE

Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge and belief.

Signature of Applicant:

Demetrus Pickens

FOR OFFICE USE ONLY

Dept

Approve

Deny

By

Reason

POLICE

☒

Miller

CITY SEALER

☒

Maggio

Date sent for approvals

4-11-17

Date Issued

Expiration Date

License Number

10-01-09

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

Return application to: City Clerk, 100 North Appleton Street, Appleton, WI 54911-4799



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: April 24, 2017

Common Council Meeting Date: May 3, 2017

Item: Special Use Permit #1-17 for an automobile sales and display lot

Case Manager: David Kress

GENERAL INFORMATION

Owner: BDB Company LLP

Applicant: VL Performance LLC c/o Coty Van Lannen

Address/Parcel #: 524 North Clark Street (Tax Id #31-2-0697-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an automobile sales and display lot in conjunction with an existing automobile maintenance shop.

BACKGROUND

The subject area, located along North Clark Street between West Atlantic Street and West Packard Street, is already occupied by the applicant. VL Performance has operated at this location as an automobile maintenance shop since 2015, when building permits were issued by the Inspections Division. Before obtaining a Motor Vehicle Dealer License from the Wisconsin Department of Transportation, the applicant must receive approval of a Special Use Permit.

As part of a Zoning Map amendment for numerous properties throughout the surrounding neighborhood, Common Council approved Rezoning #4-98 on February 18, 1998, which rezoned the subject property from CBD Central Business District to C-2 General Commercial District.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an automobile sales and display lot on the northwest portion of the subject site. Landscaping would be installed around the perimeter of the display area, as shown on the attached development plan. The existing automobile maintenance shop, which is approximately 5,000 square feet in size, would remain operational and provide the ability to perform service work on the vehicles available for sale.

Existing Site Conditions: The 0.63-acre site is currently developed with a multi-tenant building, which is approximately 11,150 square feet in size. The site also includes paved areas that have been used for off-street parking. Access is provided by curb cuts on North Clark Street and North Superior Street.

Zoning Ordinance Requirements: The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, an automobile sales and display lot requires a Special Use Permit in the C-2 District. The definition of automobile sales and display lot, per the Zoning Ordinance, means a use involving the display and temporary storage, for sale, of new or used

Special Use Permit #1-17
April 24, 2017
Page 2

motor vehicles including recreational vehicles, trucks, motorcycles and boats, and where repair or service work is incidental to the operation of new or used vehicle sales. In order to permit an automobile sales and display lot, the Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds (2/3) vote of the Common Council is required for approval.

As part of the minimum standards for an automobile sales and display lot, perimeter landscaping is required pursuant to Section 23-66(h)(5) of the Municipal Code. Based on the attached development plan, a 5-foot wide landscape buffer would be provided around the proposed display area, and a 6-foot high fence exists near the north lot line. This would satisfy the minimum standards for perimeter landscaping.

Section 23-172(m) of the Municipal Code requires a minimum number of off-street parking spaces based on the use(s) of a property. Based on the existing automobile maintenance shop (a permitted use in the C-2 District) and proposed automobile sales and display lot, a total of 19 parking spaces would be required. The 23 exterior parking spaces and four interior parking spaces (each service bay) shown on the attached development plan would exceed the minimum off-street parking requirement, allowing the proposed spaces at the north end of the property to function as display area.

Operational Information: A plan of operation is attached to the Staff Report.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and residential in nature.

North: R-1C Central City Residential District. The adjacent land uses to the north are currently single-family residential.

South: C-2 General Commercial District and R-1C Central City Residential District. The adjacent land uses to the south are currently a mix of commercial and single-family residential.

East: C-2 General Commercial District. The adjacent land uses to the east are currently a mix of commercial uses, including a funeral home.

West: R-1C Central City Residential District. The adjacent land uses to the west are currently single-family residential.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Mixed Use designation shown on the City's *Comprehensive Plan 2010-2030* Future Land Use Map. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

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

Special Use Permit #1-17
April 24, 2017
Page 3

Goal 8 – Economic Development

Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.

OBJECTIVE 9.4 Economic Development:

Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

OBJECTIVE 10.2 Land Use:

Encourage redevelopment to meet the demand for a significant share of future growth, and to enhance the quality of existing neighborhoods.

Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(5) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

Technical Review Group (TRG) Report: This item was discussed at the April 4, 2017 Technical Review Group meeting. No negative comments were received from participating departments.

RECOMMENDATION

Staff recommends, based on the above, that Special Use Permit #1-17 for an automobile sales and display lot at 524 North Clark Street (Tax Id #31-2-0697-00), as shown on the attached maps and per attached plan of operation, **BE APPROVED** to run with the land, subject to the following conditions:

1. The automobile sales and display lot use is limited to the part of parcel #31-2-0697-00 outlined on the attached City Plan Commission maps dated April 24, 2017.
2. All applicable codes, ordinances, and regulations, including but not limited to Fire and Building Codes and the Noise Ordinance, shall be complied with.
3. Any deviations from the approved development plan may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.
4. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
5. The minimum standards for an automobile sales and display lot found in Section 23-66(h)(5) of the Municipal Code shall be complied with, as applicable.
6. The perimeter landscaping, fence, and parking lot striping shall be complete prior to a Certificate of Occupancy being issued by the Inspections Division for the automobile sales and display lot use or City signatures being affixed to the Motor Vehicle Dealer License.
7. Vehicles displayed for sale outdoors shall be kept within the area north of the building, near the perimeter landscaping, as shown on the development plan.

Special Use Permit #1-17

April 24, 2017

Page 4

8. The Special Use Permit shall be deemed null and void if the use has not been established within twelve (12) months after Common Council approval, pursuant to Section 23-66(f)(3) of the Municipal Code.

524 North Clark Street
Special Use Permit
Automobile Sales and Display Lot
Zoning Map

Subject
Area

Subject Area

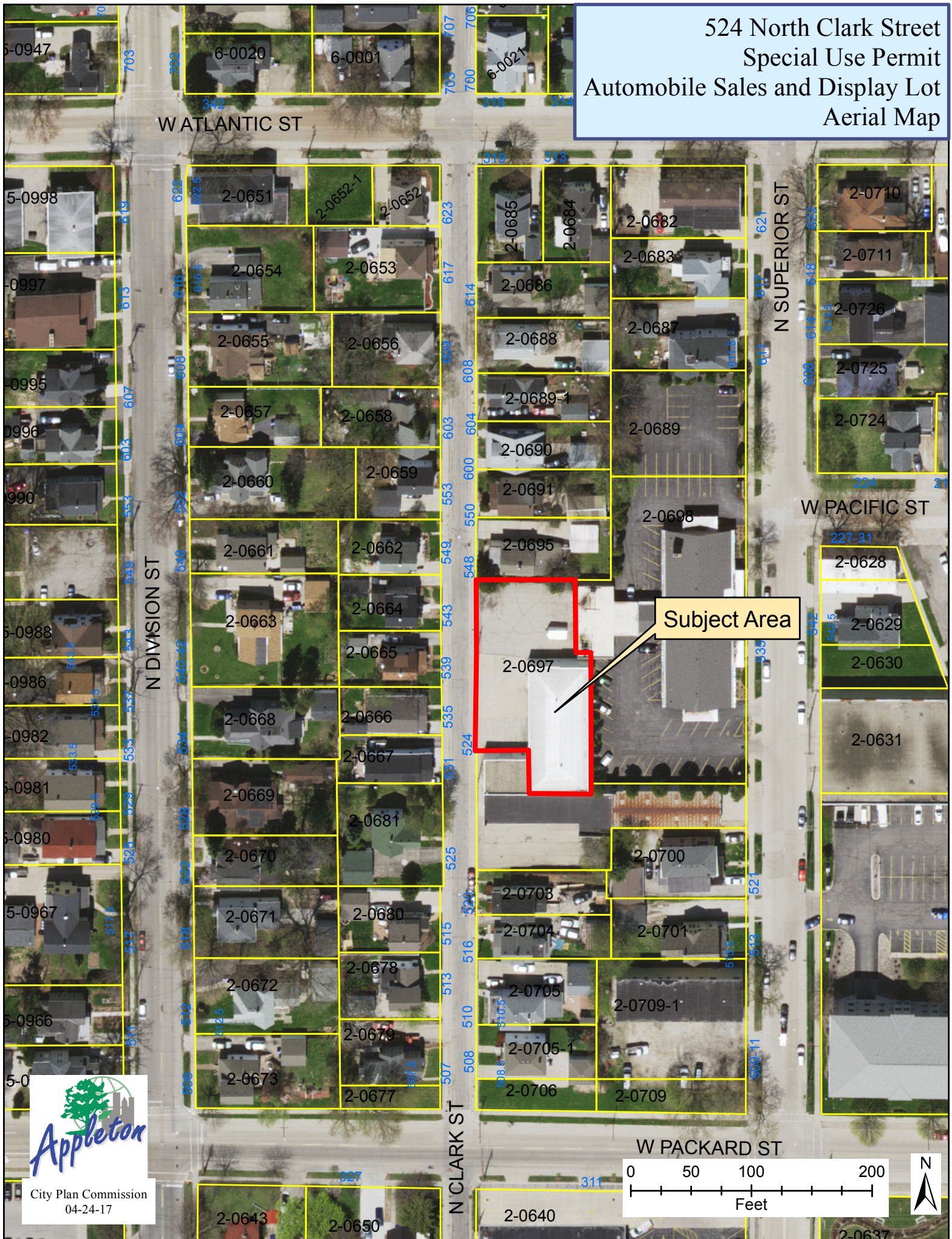


City Plan Commission
04-24-17

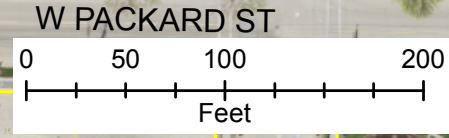
0 50 100 200 Feet



524 North Clark Street
Special Use Permit
Automobile Sales and Display Lot
Aerial Map



City Plan Commission
04-24-17

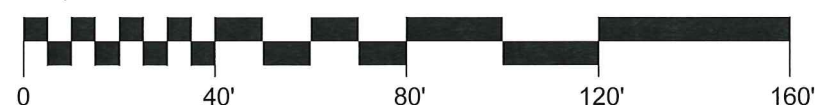




1 SITE LAYOUT
1" = 40'-0"



Graphic Scale: 1 inch = 40 feet

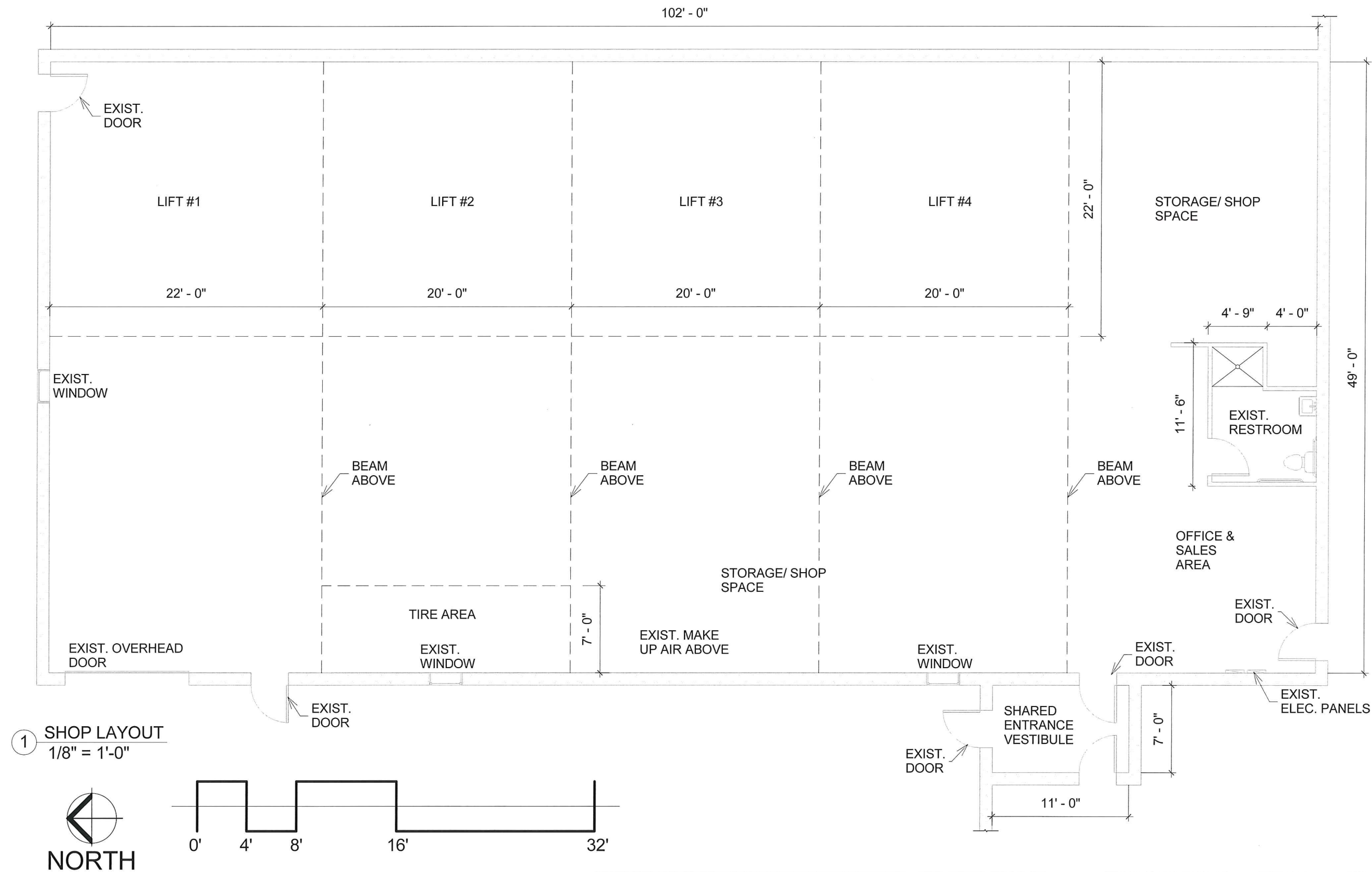


524 N. CLARK ST
SUITE #4
APPLETON, WI 54911

DATE

MAR. 28, 2017

SITE LAYOUT



524 N. CLARK ST
SUITE #4
APPLETON, WI 54911

DATE

MAR. 28, 2017

SHOP LAYOUT

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: VL Performance, LLC.

Years in operation: 2.5 years

Type of proposed establishment (detailed explanation of business):

VL Performance is a one stop performance/sales shop. We will offer our customers who are looking for a dealership alternative, a performance vehicle build, or looking to rebuild an engine or transmission, we have the knowledge, skills, and appropriate tools to complete the job correctly.

Proposed Hours of Operation:

Day	From	To
Week Day	9	5
Friday	9	5
Saturday	by appt.	
Sunday	closed	closed

Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 300 persons

Gross floor area of the existing building(s):

5000 sq/ft

Gross floor area of the proposed building(s):

N/A

Identify location, number, capacity and flammable liquid materials stored in storage tanks or containers:

We do not store flammable liquids per our insurance company rules.

Describe any potential smoke, odors emanating from the proposed use and plans to control them:

We installed a brand new make up air
unit in 2016.

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all mechanical equipment:

Noise levels are minimum now. We have not
had any complaints in the years we have been here.
We are very professional and respect our neighbors.

How will the noise be controlled?

Our building has only one insulated noise proof
door. So that keeps levels down in itself.

Outdoor Lighting:

Type: We installed LED high efficiency lighting

Location: Top of building every 20 feet.

Off-Street Parking:

Number of spaces existing: ~~0~~ 23

Number of spaces proposed: ~~0~~ 23

Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

Yes, it is adequate. we do not have a lot
of traffic flow as is.

Outdoor Uses:

Type, location, size of outdoor storage area(s) of business property, goods, or merchandise not intended for customer viewing or immediate sale:

We do not store goods outside.

Type and height of screening of plantings/fencing/gating for outdoor storage area(s):

We do not have plantings/fencing/gating for outdoor storage.

Type, location, size of outdoor display area(s) of merchandise for sale:

We do not display merchandise for sale.

Number of Employees:

Number of existing employees: 7

Number of proposed employees: 8-9

Number of employees scheduled to work on the largest shift: 4

Legal Description of Land

The West 82.5' of the East 224' of Lot 11, the West 95' of the East 224' of Lot 12, the North 37' of the East 112' and North 72.73' of the East 111.2' of the West 120' of Lot 13, all in Block 65 of the Second Ward Plat, City of Appleton, Outagamie County, Wisconsin

Type of Proposed Establishment (detailed explanation of business):

VL Performance is a one stop automotive performance and repair shop. We are fully staffed with Master ASE Certified technicians for the repair work and have 3 mechanical engineers responsible for the design and engineering/performance work. I have been personally involved in the building of another used car sales shop located in Green Bay helping expand that business from \$25,000 a year to a \$3-4 million company. This is my true passion!! I aspire to develop a one stop shop for vehicle sales, with honest, professional repair work, and engineering. We will offer our customers with an alternative to large dealerships, a performance vehicle build, or assistance with rebuilding an engine/transmission. We have the knowledge, skills, and appropriate tools to complete the job correctly and professionally.

I have grown this business from a one stall garage 2.5 years-ago to a third, larger location where I plan to really expand this company. VL Performance has grown extensively over the three years from an annual gross of 32k the first year, 125k the second, and now in new location we were just shy of 500k in only our third year of business. We have gone this far by strictly word of mouth and social media advertising. Obtaining the dealer's license would allow for us to expand our social media advertising, develop a professional website for the car sales portion of business that will include links to other local businesses from whom we purchase our supplies, utilize newspaper/radio advertisements, earn magazine/internet publicity with our professional car builds, as well as allow VL Performance to continue supporting local car clubs/shows and fundraisers.

I pride myself on the quality of my staff and plan to hire additional people in the future as we expand. VL Performance has great reviews on both Google and Facebook with a BBB rating of an A. The facility is setup 100 percent currently after 2016 improvements including a make-up air unit and a 3-phase electrical upgrade. My largest priority right now is getting the city on board with what I want to build here, which in turn will improve the area that VL Performance is in now, bring in more jobs, tax revenue, and people from other parts of Wisconsin and the USA. I want to put Appleton on the map for a one of a kind automotive performance shop, engineering facility, and high quality vehicle sales. While creating new jobs, and help the community prosper.

RESOLUTION
CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #1-17

WHEREAS, VL Performance, LLC has applied for a Special Use Permit for an automobile sales and display lot located at 524 North Clark Street, also identified as Parcel Number(s) 31-2-0697-00; and

WHEREAS, the location for the proposed automobile sales and display lot is located in the C-2 General Commercial District and the proposed use is permitted by special use within this zoning district; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on April 24, 2017, on Special Use Permit #1-17 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission has considered the application, the staff reports, oral and written, the Comprehensive Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-6) and 23-66(h)(5) of the Municipal Code, and forwarded Special Use Permit #1-17 to the City of Appleton Common Council with a favorable or not favorable (CIRCLE ONE) recommendation; and

WHEREAS, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on _____, 2017 and found it to be acceptable.

NOW, THEREFORE, BE IT RESOLVED, that the City of Appleton Common Council approves Special Use Permit #1-17 for an automobile sales and display lot located at 524 North Clark Street, also identified as Parcel Number(s) 31-2-0697-00 and orders as follows:

CONDITIONS OF SPECIAL USE PERMIT #1-17

1. The automobile sales and display lot use is limited to the part of parcel #31-2-0697-00 outlined on the attached City Plan Commission maps dated April 24, 2017.
2. All applicable codes, ordinances, and regulations, including but not limited to Fire and Building Codes and the Noise Ordinance, shall be complied with.
3. Any deviations from the approved development plan may require a major or minor amendment request to this Special Use Permit, pursuant to Section 23-66(g) of the Municipal Code.

4. Compliance with the plan of operation is required at all times. Changes to the plan of operation shall be submitted to the Community and Economic Development Department for review and approval.
5. The minimum standards for an automobile sales and display lot found in Section 23-66(h)(5) of the Municipal Code shall be complied with, as applicable.
6. The perimeter landscaping, fence, and parking lot striping shall be complete prior to a Certificate of Occupancy being issued by the Inspections Division for the automobile sales and display lot use or City signatures being affixed to the Motor Vehicle Dealer License.
7. Vehicles displayed for sale outdoors shall be kept within the area north of the building, near the perimeter landscaping, as shown on the development plan.
8. The Special Use Permit shall be deemed null and void if the use has not been established within twelve (12) months after Common Council approval, pursuant to Section 23-66(f)(3) of the Municipal Code.

Adopted this _____ day of _____, 2017.

Timothy M. Hanna, Mayor

ATTEST:

Kami Lynch, City Clerk

RECEIVED

APR 20 2017

April 20, 2017

Dear City Plan Commission of Appleton,

CITY OF APPLETON
COMMUNITY/ECON DEVELOPMENT

I'm writing in response to a letter I received about a hearing for special use permit by VL Performance LLC and BDB Company LLP at 524 N Clark St.

I would like to register my opposition to this permit and plan as a next-door neighbor of this building. Businesses and adding any additional traffic to this block does not make sense and is not safe.

Our street is barely two lanes as it is. There is NO parking on the street. All of the front lawns are only about 8 feet. In winter, the snow build-up creates a one lane road out of our narrow street. To add any traffic to an already hazardous narrow road would only increase danger to pedestrians.

There previously was a home daycare next to my house (in a house, not this business building) that was constantly causing problems. Besides adding to traffic, clients would park on the road despite no parking, in the business lot against marked signage, or block my driveway. This would be a similar nuisance with people similarly disrespecting the neighbors with hassle, noise, and danger. Our Neighborhood Watch group already reports drivers speeding, ignoring the stop signs, and after business hours noise that keeps them up at night.

From what I understand of the history of our street, this used to be the lane to drive cattle down to the railcars for transport. Whether that's fact or not, it's an accurate idea of how narrow it is and no place for a car lot right in the middle or extra traffic zipping along "test driving" a car.

Thank you for consideration of my letter as I cannot attend the hearing in person. I received this without adequate notice to request off from work and from what I understand from neighbors on our block that are impacted, some didn't receive letters AT ALL alerting them of the hearing.

Respectfully yours,

Noele EA Reynolds

Noele EA Reynolds
520 N Clark St.
Appleton, WI 54911
920-360-5985

RECEIVED

APR 21 2017

CITY OF APPLETON
COMMUNITY/ECON DEVELOPMENT

1776 Acorn Court
Menasha, WI 54952
April 20, 2017

Appleton City Plan Commission
Community & Economic Development
City Hall – 100 North Appleton Street
Appleton, WI 54911-4799

To Whom it May Concern:

I am not able to attend the Public Hearing on Monday, April 24, but I wanted to give some input into the proposed Special Use Permit at 524 N. Clark Street.

I own the property at 539 N. Clark Street which is directly across the road from the proposed automobile sales and display lot.

A former tenant informed me of the current occupants having late hours (after 10 pm), excessive lighting on the building which would shine into the house and felt the noise and traffic make this business a nuisance.

Hearsay is that many long-time residents have moved because of this business.

If there were restrictions placed on them for late hours, noise and lighting, then I would consider giving them a special use permit.

Sincerely,

MCNALLY INVESTMENTS, LLC



Peggy McNally

Owner—539 N. Clark Street, Appleton, WI

Petition

Whereas

VL Performance LLC, applicant, and BDB Company LLP, owner of the property addressed 524 N. Clark Street, have requested a Special Use Permit for an automobile sales and display lot

We the undersigned, petition the Appleton Plan Commission and the Common Council of the City of Appleton, Wisconsin to **deny** the request of a Special Use Permit.

RECEIVED

APR 24 2017

CITY OF APPLETON
COMMUNITY/ECON DEVELOPMENT

- 1, We feel that there is no room for customers to park and it will be tempting to park on the street even though off street parking is prohibited.
- 2, We feel the lot is too small to accommodate employee parking, customer parking and displaying cars
3. Any increase traffic (with customers visiting the lot and test driving vehicles) on a very narrow street will increase the problems we already have
4. At times our quiet neighborhood has had to tolerate noise from this shop and we fear that any expansion of this business will only force us to tolerate even more noise
5. Serious consideration should be given to the fact that this business is surrounded by residential and if it is to remain in this neighborhood it should do so by adapting to the fact that it is in a residential neighborhood. By granting the Special Use Permit the Plan Commission and City of Appleton is allowing this business to expand thereby forcing the neighborhood to once again adapt to a business that would be best suited elsewhere.

Date	Name Printed	Address	Signature
4-17-17	Amber McGinty	617 N Clark St	Amber McGinty
4-17-17	David McGinty	617 N. Clark St	David McGinty
4-17-17	Jacki Bravener	623 N. Clark St	Jacki Bravener
4-17-17	Cheryl M. Muly	623 N, Clark St	Cheryl M. Muly
4/17/17	Danae Fuller	614 N Clark St	Danae Fuller
4/17/17	Zach Fuller	614 N Clark St	Zach Fuller
4/17/17	Shawn Willard	600 N Clark St	Shawn Willard
4-17-17	Diane Patrick	553 N Clark	Diane Patrick

Name and Address of Circulator

Amber McGinty
617 N Clark St

Date

4-17-17

Petition

Whereas

VL Performance LLC, applicant, and BDB Company LLP, owner of the property addressed 524 N. Clark Street, have requested a Special Use Permit for an automobile sales and display lot

We the undersigned, petition the Appleton Plan Commission and the Common Council of the City of Appleton, Wisconsin to **deny** the request of a Special Use Permit.

RECEIVED

APR 24 2017

CITY OF APPLETON
COMMUNITY/ECON DEVELOPMENT

- 1, We feel that there is no room for customers to park and it will be tempting to park on the street even though off street parking is prohibited.
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 4. At times our quiet neighborhood has had to tolerate noise from this shop and we fear that any expansion of this business will only force us to tolerate even more noise
 5. Serious consideration should be given to the fact that this business is surrounded by residential and if it is to remain in this neighborhood it should do so by adapting to the fact that it is in a residential neighborhood.
- By granting the Special Use Permit the Plan Commission and City of Appleton is allowing this business to expand thereby forcing the neighborhood to once again adapt to a business that would be best suited elsewhere.

Date	Name Printed	Address	Signature
4/17/17	Dan Hermser	553 N Clark	Dan Hermser
4/17/17	Rebekah Simpson	555 N Clark St	Rebekah Simpson
4/17/17	Adam Simpson	555 N Clark St	Adam Simpson
4/17/17	Amber Flores	515 N Clark St	Amber Flores
4/17/17	Josh Matthee	507 N Clark St	Josh Matthee
4/17/17	Jason Bunnaw	603 N Clark St	Jason Bunnaw
4/17/17	Crystal DeLosSantos	608 N. Clark St	Crystal DeLosSantos

Name and Address of Circulator

Amber McGinley 617 N Clark St

Date

4-17-17



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: April 24, 2017

Common Council Meeting Date: May 3, 2017

Item: Final Plat – Third Addition to Emerald Valley

Case Manager: Don Harp

GENERAL INFORMATION

Owner/Applicant: Robert DeBruin, Emerald Valley Estates, LLC

Address/Parcel #: Providence Avenue / Part of 31-1-7600-00

Petitioner's Request: The owner/applicant is proposing to subdivide property under a multi-phased approach.

BACKGROUND

The Preliminary Plat for the Third Addition to Emerald Valley consisting of 11 residential lots was approved by the Plan Commission on March 20, 2017 and by the Common Council on April 19, 2017.

Rezoning #1-17 (AG Agricultural District to R-1B Single-Family District) for the Third Addition to Emerald Valley was approved by the Plan Commission on March 20, 2017 and by the Common Council on April 19, 2017.

The subject property was annexed to the City in 2004 as part of the French Road Annexation, and a zoning classification of AG Agricultural District was assigned at that time. In 2005, a preliminary plat had been submitted for the overall property, which called for the creation of a total of 252 residential lots.

STAFF ANALYSIS

Existing Conditions: The portion of the lot to be subdivided is currently undeveloped. The 5.995 acre area will be divided into eleven (11) single family lots.

Comparison Between Final Plat and Preliminary Plat: The Final Plat is consistent with the Preliminary Plat layout for these eleven (11) lots in terms of shape, size, and location.

Zoning Ordinance Review Criteria: R-1B lot development standards (Section 23-93) are as follows:

- Minimum lot area: Six thousand (6,000) square feet.
 - *The proposed average lots size is 18,000 square feet. All lots exceed this requirement.*

- Minimum lot width: Fifty (50) feet.
 - *The proposed lots average lot width is 110 feet. All lots exceed this requirement.*
- Minimum front, side and rear yard setbacks: Twenty (20) foot front yard, Six (6) foot side yard, and Twenty-five (25) foot rear yard.
 - *Required front yard setback had been shown on the Preliminary Plat. Required setbacks will be reviewed through the building permit review process.*
- Maximum building height: Thirty-five (35) feet.
 - *This will be reviewed through the building permit review process.*
- Maximum lot coverage. Fifty percent (50%).
 - *This will be reviewed through the building permit review process.*

Compliance with the Appleton Subdivision Regulations: This subdivision complies with the Appleton Subdivision Regulations, and no variances have been requested.

Access and Traffic: The primary vehicular access to this phase is via Providence Avenue, which connects to Amethyst Drive and Bluetopaz Drive. The full 66 foot road right-of-way for Providence Avenue and 60 foot road right-of-way for width of Amethyst Drive and Bluetopaz Drive will be dedicated to the City with the Final Plat.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east and west). The uses are generally residential and agricultural in nature.

2010-2030 Comprehensive Plan: Community Development staff has reviewed this proposed subdivision and determined it is compatible with the One and Two-Family Residential uses shown on the City's 2010-2030 Comprehensive Plan Future Land Use Map.

Parks and Open Space: The Appleton Subdivision Regulations do require parkland dedication or fee in lieu for residential subdivisions. The parkland fees pursuant to Chapter 17 of the Appleton Municipal Code have been waived in exchange for parkland as illustrated in the Emerald Valley Development Agreement signed by the City officials on July 17, 2006.

Technical Review Group Report (TRG): This item was discussed at the April 4, 2017 Technical Review Group Report meeting.

Department of Public Works Comments:

- A Development Agreement will be required as part of the Final Platting process.

RECOMMENDATION

The Third Addition to Emerald Valley Final Plat, **BE APPROVED** subject to the following conditions and as shown on the attached maps:

1. On Sheet 2 of 2, change City Clerk's name to Kami Lynch.
2. On Sheet 2 of 2, check last name spelling for Pat Hietpas (listed as "Hieptas")
3. The following streets within the Third Addition to Emerald Valley Final Plat meet the standards to be classified as local and collector streets and will henceforth be so classified:

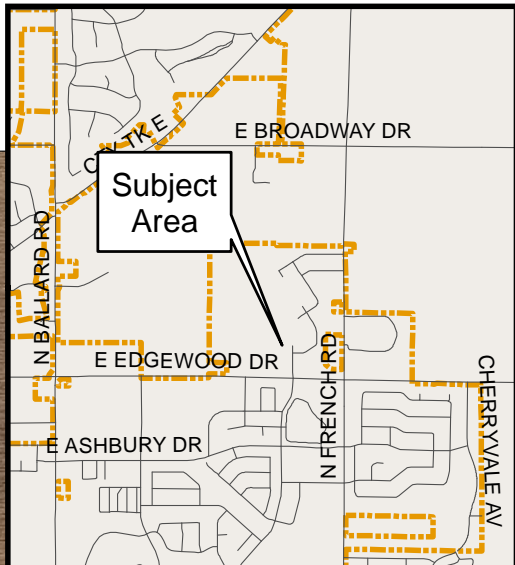
Local Streets: Bluetopaz Drive and Amethyst Drive

Collector Street: Providence Avenue

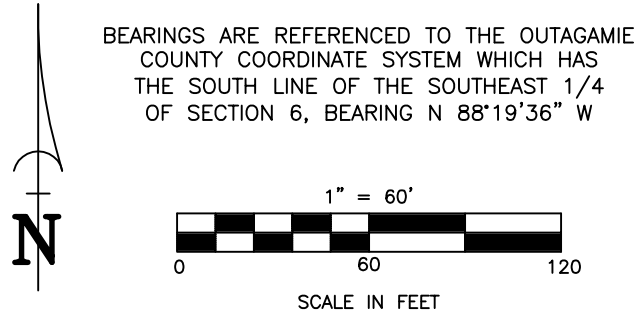
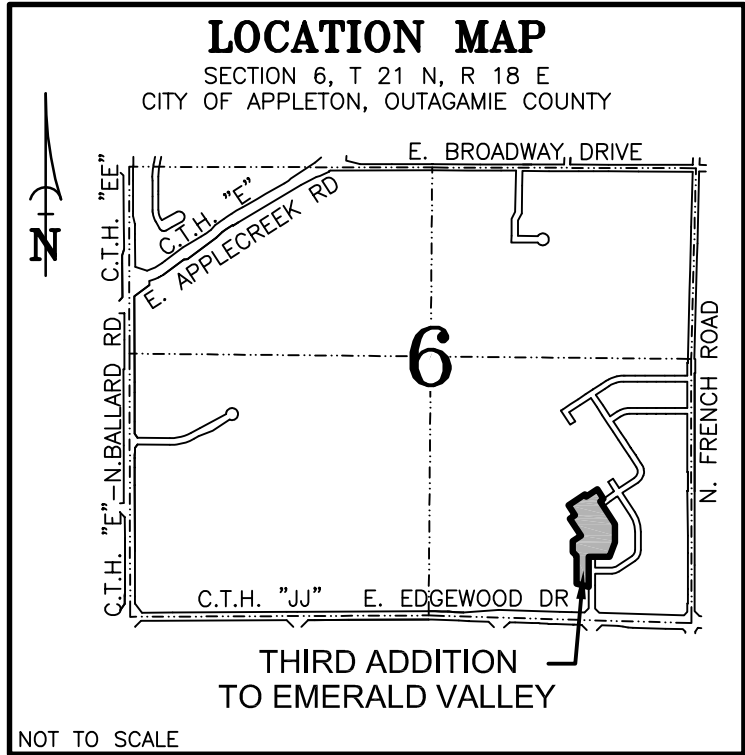
4. All easements, including but not limited to, water mains, sewer mains, storm sewers, and drainage shall be shown on the Final Plat to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.
5. All requirements from the City of Appleton Public Works Department, Engineering Division, shall be met to the satisfaction of the City Engineer prior to the City affixing signatures on the Final Plat.
6. The owner/applicant shall submit to the City Engineering Division for review and approval information showing how storm sewer/drainage will be developed to accommodate the proposed phasing, prior to City signatures being affixed to the Final Plat.
7. Prior to City signatures being affixed to the Final Plat, grant a storm sewer easement to the City for portions of proposed storm sewer that extend west of plat limits (future Lots 137 and 138 and adjacent future Bluetopaz Drive). The easement may be via separate instrument from the plat.
8. Prior to City signatures being affixed to the Final Plat, a revised Drainage Plan shall be submitted to the Community and Economic Development Department for Department of Public Works review showing the following:
 - a. Show lot dimensions.

- b. Provide a temporary drainage ditch that runs from the northwest corner of Lot 88 to a selected location of the storm sewer west of the plat and daylight one of the pipes to collect this flow.
 - c. Provide proposed spot grade for the northeast corner of Lot 81.
- 9. The Development Agreement will include a stipulation that the rear lot line berm along Lots 59-64 in Emerald Valley 2nd Addition must be constructed prior to issuance of any building permits in Emerald Valley 3rd Addition.
- 10. A Development Agreement being made and entered into by and between the City of Appleton and the applicant/owner and any amendments related thereto prior to the issuance of any permit to commence construction of any public improvement.

Third Addition to Emerald Valley Final Plat Aerial Map



THIRD ADDITION TO EMERALD VALLEY
PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST,
CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN



LEGEND

1" O.D. ROUND IRON PIPE SET, 24" LONG, WEIGHING 1.13 LBS. PER LINEAL FOOT AT ALL OTHER LOT CORNERS

▲ 1-1/4" O.D. ROUND REINFORCING BAR SET, 30" LONG WEIGHING 4.303 LBS. PER LINEAL FOOT

△ 1-1/4" O.D. REBAR FOUND

○ 3/4" O.D. REBAR FOUND

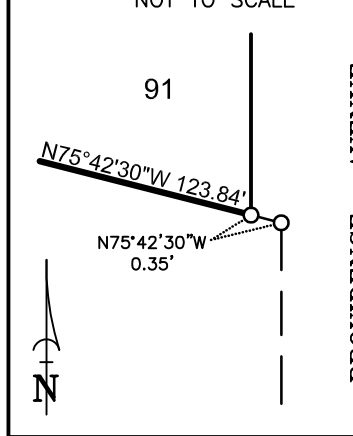
[] TOTAL LOT AREA IN SQUARE FEET

⬢ GOVERNMENT CORNER

UTILITY EASEMENTS - NO POLES OR BURIED CABLES ARE TO BE PLACED SUCH THAT THE INSTALLATION WOULD DISTURB ANY SURVEY STAKE OR OBSTRUCT VISION ALONG ANY LOT LINE OR STREET LINE. THE DISTURBANCE OF A SURVEY STAKE BY ANYONE IS A VIOLATION OF SECTION 236.32 OF WISCONSIN STATUTES. UTILITY EASEMENTS AS HEREIN SET FORTH ARE FOR THE USE OF PUBLIC BODIES AND PRIVATE PUBLIC UTILITIES HAVING THE RIGHT TO SERVE THE AREA.

DETAIL "A"

NOT TO SCALE



NOTES

ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE HUNDREDTH OF A FOOT.

ALL ANGULAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST 20 SECONDS AND COMPUTED TO THE NEAREST HALF SECOND.

FRONT YARD BUILDING SETBACKS ARE 20 FEET, THE MINIMUM REAR YARD BUILDING SETBACKS ARE 25 FEET AND MINIMUM SIDE YARD BUILDING SETBACKS ARE 6 FEET AS LISTED IN THE CITY OF APPLETON ZONING ORDINANCE, R-1B SINGLE-FAMILY DISTRICT.

THERE ARE NO EXISTING BUILDINGS WITHIN THE PLATTED AREA.

CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD	TANGENT IN	TANGENT OUT
1	333.00'	004°19'42"	25.16'	S 27°04'53.0" E	25.15'	N 24°55'02" W	N 29°14'44" W
2	267.00'	016°40'10"	77.68'	N 08°20'38.0" W	77.41'	N 00°00'33" W	N 16°40'43" W
3	333.00'	016°40'10"	96.88'	N 08°20'38.0" W	96.54'	N 00°00'33" W	N 16°40'43" W
4	333.00'	006°30'18"	37.81'	N 03°15'42.0" W	37.79'	N 00°00'33" W	N 06°30'51" W
5	333.00'	010°09'52"	59.08'	N 11°35'47.0" W	59.00'	N 06°30'51" W	N 16°40'43" W
6	70.00'	016°40'11"	20.37'	S 64°59'11.5" W	20.29'	S 73°19'17" W	S 56°39'06" W
7	130.00'	016°40'10"	37.82'	S 64°59'12.0" W	37.69'	S 73°19'17" W	S 56°39'07" W
8	267.00'	011°33'01"	53.82'	N 22°27'13.5" W	53.73'	N 16°40'43" W	N 28°13'44" W
9	333.00'	012°34'01"	73.04'	N 22°57'43.5" W	72.89'	N 16°40'43" W	N 29°14'44" W
10	333.00'	008°14'19"	47.88'	N 20°47'52.5" W	47.84'	N 16°40'43" W	N 24°55'02" W
11	70.00'	021°31'03"	26.29'	N 62°33'45.5" E	26.13'	N 73°19'17" E	N 51°48'14" E
12	130.00'	021°31'03"	48.82'	N 62°33'45.5" E	48.54'	N 73°19'17" E	N 51°48'14" E

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20____



Department of Administration

Martenson & Eisele, Inc.

1377 Midway Road
Menasha, WI 54952
www.martenson-eisele.com
Info@martenson-eisele.com
920.731.0381 1.800.236.0381

Planning
Environmental
Surveying
Engineering
Architecture

Drawing No. 1-0534-004
Sheet 1 of 2
This instrument drawn by: Amy Sedar

THIRD ADDITION TO EMERALD VALLEY
PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST,
CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

I, GARY A. ZHRINGER, PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED, AND MAPPED THIRD ADDITION TO EMERALD VALLEY, AT THE DIRECTION OF EMERALD VALLEY ESTATES LLC, PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE NORTH 88 DEGREES 19 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 1031.99 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE AVENUE AND ITS SOUTHERLY EXTENSION, A DISTANCE OF 335.08 FEET; THENCE NORTH 75 DEGREES 42 MINUTES 30 SECONDS WEST, CONTINUING ALONG THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE AVENUE, A DISTANCE OF 0.33 FEET TO THE POINT OF BEGINNING; THENCE NORTH 75 DEGREES 42 MINUTES 30 SECONDS WEST, ALONG THE NORTH LINE OF CERTIFIED SURVEY MAP NO. 6311, A DISTANCE 123.84 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, 280.05 FEET; THENCE NORTH 45 DEGREES 11 MINUTES 26 SECONDS WEST, 53.70 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, 107.87 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 100.00 FEET; THENCE NORTH 33 DEGREES 20 MINUTES 53 SECONDS WEST, 206.71 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 61.61 FEET; THENCE NORTH 33 DEGREES 20 MINUTES 53 SECONDS WEST, 120.00 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 197.73 FEET; THENCE 25.16 FEET ALONG AN ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 333.00 FEET AND A CHORD THAT BEARS SOUTH 27 DEGREES 04 MINUTES 53.0 SECONDS EAST, 25.15 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 134.60 FEET; THE FOLLOWING SEVEN CALLS ARE ALONG THE WEST LINE OF THE SECOND ADDITION TO EMERALD VALLEY:
THENCE SOUTH 33 DEGREES 20 MINUTES 53 SECONDS EAST, 116.53 FEET;
THENCE SOUTH 51 DEGREES 48 MINUTES 14 SECONDS WEST, 42.25 FEET;
THENCE SOUTH 33 DEGREES 20 MINUTES 53 SECONDS EAST, 270.58 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 33 SECONDS EAST, 185.00 FEET;
THENCE SOUTH 21 DEGREES 00 MINUTES 01 SECONDS WEST, 153.41 FEET;
THENCE SOUTH 89 DEGREES 59 MINUTES 27 SECONDS WEST, 211.00 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 33 SECONDS EAST, 300.64 FEET TO THE POINT OF BEGINNING. CONTAINING 261,163 SQUARE FEET [5.995 ACRES] AND SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

THAT SUCH PLAT IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE SUBDIVISION THEREOF MADE.

THAT I HAVE MADE SUCH LAND DIVISION AND PLAT BY THE DIRECTION OF THE OWNERS SHOWN HEREIN.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES, AND THE SUBDIVISION REGULATIONS OF THE CITY OF APPLETON IN SURVEYING, DIVIDING AND MAPPING THE SAME.

GIVEN UNDER MY HAND THIS 28TH DAY OF MARCH, 2017.

GARY A. ZHRINGER, PROFESSIONAL LAND SURVEYOR S-2098

CORPORATE OWNER'S CERTIFICATE OF DEDICATION

EMERALD VALLEY ESTATES LLC, DULY ESTABLISHED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HEREBY CERTIFY THAT SAID EMERALD VALLEY ESTATES LLC, CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED ALL AS SHOWN AND REPRESENTED ON THIS PLAT.

EMERALD VALLEY ESTATES LLC, FURTHER CERTIFIES THAT THIS PLAT IS REQUIRED BY S.236.10 OR S.236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

DEPARTMENT OF ADMINISTRATION
CITY OF APPLETON

WITNESS THE HAND AND SEAL OF SAID OWNER(S) THIS _____ DAY OF _____, 2017.

ROBERT DEBRUIN - MEMBER

FAT HIEPTAS - MEMBER

STATE OF WISCONSIN)
) SS
OUTAGAMIE COUNTY)

PERSONALLY CAME BEFORE ME THIS _____ DAY OF _____, 2017,
THE ABOVE OWNER(S) TO ME KNOWN TO BE THE PERSON(S) , WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGE THE SAME.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

DRAINAGE EASEMENT PROVISIONS

AN EASEMENT FOR DRAINAGE IS HEREBY GRANTED BY EMERALD VALLEY ESTATES LLC, GRANTOR, TO

CITY OF APPLETON, GRANTEE,

THE GRANTOR, THEIR RESPECTIVE LESSEES, SUCCESSORS, HEIRS OR ASSIGNS, SHALL HAVE FULL USE AND ENJOYMENT OF THE PROPERTY REFERENCED ABOVE PROVIDED THAT SUCH USE DOES NOT INTERFERE WITH GRANTEE'S RIGHT TO INSTALL, REPLACE, OPERATE, MAINTAIN AND REPAIR SAID DRAINAGEWAY AND ASSOCIATED APPURTENANCES. IT IS FURTHER AGREED THAT AFTER MAINTAINING, REPAIRING, REPLACING OR RELOCATING OF SAID DRAINAGEWAY AND ASSOCIATED APPURTENANCES GRANTEE SHALL RESTORE UNIMPROVED SURFACES SUCH AS GRASS, GRAVEL AND DIRT ON SAID PROPERTY, AS CLOSELY AS POSSIBLE, TO THE CONDITION PREVIOUSLY EXISTING. GRANTEE SHALL NOT BE REQUIRED TO RESTORE OR COMPENSATE FOR ANY IMPROVEMENTS OR IMPROVED SURFACES SUCH AS, BUT NOT LIMITED TO, CURB AND GUTTER, HARD PAVEMENTS, TREES, SHRUBS AND LANDSCAPING, DISTURBED AS A RESULT OF THE MAINTENANCE ACTIVITIES DESCRIBED HEREIN. GRANTEE DOES HEREBY AGREE TO COMPENSATE FULLY FOR ANY DAMAGE CAUSED DIRECTLY OR INDIRECTLY FROM SAID MAINTENANCE, REPAIR, REPLACEMENT OR RELOCATION OF SAID DRAINAGEWAY AND ASSOCIATED APPURTENANCES, THAT OCCUR OUTSIDE OF THE ABOVE DESCRIBED EASEMENT AREA. BUILDINGS OR ANY OTHER TYPE OF STRUCTURE OR IMPEDIMENT TO DRAINAGE SHALL NOT BE PLACED OVER GRANTEE'S FACILITIES OR IN, UPON OR OVER THE PROPERTY WITHIN THE LINES MARKED "DRAINAGE EASEMENT". GRANTEE AGREES THAT IT SHALL GIVE TIMELY NOTICE TO THE GRANTOR OF ROUTINE MAINTENANCE WORK. GRANTOR SHALL MAINTAIN GROUND SURFACE AND VEGETATION SO AS NOT TO IMPEDE DRAINAGE.

STORM SEWER EASEMENTS PROVISION

AN EASEMENT FOR STORM SEWER IS HEREBY GRANTED BY EMERALD VALLEY ESTATES LLC, GRANTOR, TO

CITY OF APPLETON, GRANTEE,

THE GRANTOR, THEIR RESPECTIVE LESSEES, SUCCESSORS, HEIRS OR ASSIGNS, SHALL HAVE FULL USE AND ENJOYMENT OF THE PROPERTY REFERENCED ABOVE PROVIDED THAT SUCH USE DOES NOT INTERFERE WITH GRANTEE'S RIGHT TO INSTALL, REPLACE, OPERATE, MAINTAIN AND REPAIR SAID STORM SEWER AND ASSOCIATED APPURTENANCES. IT IS FURTHER AGREED THAT AFTER MAINTAINING, REPAIRING, REPLACING OR RELOCATING OF SAID STORM SEWER AND ASSOCIATED APPURTENANCES GRANTEE SHALL RESTORE UNIMPROVED SURFACES SUCH AS GRASS, GRAVEL AND DIRT ON SAID PROPERTY, AS CLOSELY AS POSSIBLE, TO THE CONDITION PREVIOUSLY EXISTING. GRANTEE SHALL NOT BE REQUIRED TO RESTORE OR COMPENSATE FOR ANY IMPROVEMENTS OR IMPROVED SURFACES SUCH AS, BUT NOT LIMITED TO, CURB AND GUTTER, HARD PAVEMENTS, TREES, SHRUBS AND LANDSCAPING, DISTURBED AS A RESULT OF THE MAINTENANCE ACTIVITIES DESCRIBED HEREIN. GRANTEE DOES HEREBY AGREE TO COMPENSATE FULLY FOR ANY DAMAGE CAUSED DIRECTLY OR INDIRECTLY FROM SAID MAINTENANCE, REPAIR, REPLACEMENT OR RELOCATION OF SAID STORM SEWER AND ASSOCIATED APPURTENANCES, THAT OCCUR OUTSIDE OF THE ABOVE DESCRIBED EASEMENT AREA. BUILDINGS OR ANY OTHER TYPE OF STRUCTURE SHALL NOT BE PLACED OVER GRANTEE'S FACILITIES OR IN, UPON OR OVER THE PROPERTY WITHIN THE LINES MARKED "STORM SEWER EASEMENT" GRANTEE AGREES THAT IT SHALL GIVE TIMELY NOTICE TO THE GRANTOR OF ROUTINE MAINTENANCE WORK.

THE GRANT OF EASEMENTS SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF THE HEIRS, SUCCESSORS AND ASSIGNS OF ALL PARTIES HERETO.

ROBERT DEBRUIN - MEMBER

FAT HIEPTAS - MEMBER

UTILITY EASEMENT PROVISIONS

AN EASEMENT FOR ELECTRIC, NATURAL GAS, AND COMMUNICATIONS SERVICE IS HEREBY GRANTED BY EMERALD VALLEY ESTATES LLC, GRANTORS, TO

WISCONSIN ELECTRIC POWER COMPANY, A WISCONSIN CORPORATION DOING BUSINESS AS WE ENERGIES, GRANTEE,
WISCONSIN BELL, INC. D/B/A AT&T WISCONSIN, A WISCONSIN CORPORATION, GRANTEE, AND
TIME WARNER ENTERTAINMENT COMPANY, L.P., GRANTEE

THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO CONSTRUCT, INSTALL, OPERATE, REPAIR, MAINTAIN AND REPLACE FROM TIME TO TIME, FACILITIES USED IN CONNECTION WITH OVERHEAD AND UNDERGROUND TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND ELECTRIC ENERGY, NATURAL GAS, TELEPHONE AND CABLE TV FACILITIES FOR SUCH PURPOSES AS THE SAME IS NOW OR MAY HEREAFTER BE USED, ALL IN, OVER, UNDER, ACROSS, ALONG AND UPON THE PROPERTY SHOWN WITHIN THOSE AREAS ON THE PLAT DESIGNATED AS "UTILITY EASEMENT AREAS" AND THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, WHETHER PUBLIC OR PRIVATE, TOGETHER WITH THE RIGHT TO INSTALL SERVICE CONNECTIONS UPON, ACROSS WITHIN AND BENEATH THE SURFACE OF EACH LOT TO SERVE IMPROVEMENTS, THEREON, OR ON ADJACENT LOTS; ALSO THE RIGHT TO TRIM OR CUT DOWN TREES, BRUSH AND ROOTS AS MAY BE REASONABLY REQUIRED INCIDENT TO THE RIGHTS HEREIN GIVEN, AND THE RIGHT TO ENTER UPON THE SUBDIVIDED PROPERTY FOR ALL SUCH PURPOSES. THE GRANTEES AGREE TO RESTORE OR CAUSE TO HAVE RESTORED, THE PROPERTY, AS NEARLY AS IS REASONABLY POSSIBLE, TO THE CONDITION EXISTING PRIOR TO SUCH ENTRY BY THE GRANTEES OR THEIR AGENTS. THIS RESTORATION, HOWEVER, DOES NOT APPLY TO THE INITIAL INSTALLATION OF SAID UNDERGROUND AND/OR ABOVE GROUND ELECTRIC FACILITIES, NATURAL GAS FACILITIES, OR TELEPHONE AND CABLE TV FACILITIES OR TO ANY TREES, BRUSH OR ROOTS WHICH MAY BE REMOVED AT ANY TIME PURSUANT TO THE RIGHTS HEREIN GRANTED. STRUCTURES SHALL NOT BE PLACED OVER GRANTEES' FACILITIES OR IN, UPON OR OVER THE PROPERTY WITHIN THE LINES MARKED "UTILITY EASEMENT AREAS" WITHOUT THE PRIOR WRITTEN CONSENT OF GRANTEES. AFTER INSTALLATION OF ANY SUCH FACILITIES, THE GRADE OF THE SUBDIVIDED PROPERTY SHALL NOT BE ALTERED BY MORE THAN FOUR INCHES WITHOUT WRITTEN CONSENT OF GRANTEES. THE GRANT OF EASEMENT SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF THE HEIRS, SUCCESSORS AND ASSIGNS OF ALL PARTIES HERETO.

ROBERT DEBRUIN - MEMBER

FAT HIEPTAS - MEMBER

COMMON COUNCIL RESOLUTION:

RESOLVED, THAT THIRD ADDITION TO EMERALD VALLEY, IN THE CITY OF APPLETON, IS HEREBY APPROVED BY THE COMMON COUNCIL OF THE CITY OF APPLETON.

ON THIS _____ DAY OF _____, 2017.

TIMOTHY HANNA, CITY MAYOR

I HEREBY CERTIFY THAT THE FOREGOING IS A COPY OF A RESOLUTION ADOPTED BY THE COMMON COUNCIL OF THE CITY OF APPLETON.

DAWN COLLINS, CITY CLERK

DATE

CITY TREASURER'S CERTIFICATE:

I, ANTHONY D. SAUCERMAN, BEING THE DULY QUALIFIED AND ACTING FINANCE DIRECTOR OF THE

CITY OF APPLETON, DO HEREBY CERTIFY THAT IN ACCORDANCE WITH THE RECORDS IN MY OFFICE, THERE

ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS AS OF _____ ON ANY OF THE

LAND INCLUDED IN THIRD ADDITION TO EMERALD VALLEY.

ANTHONY D. SAUCERMAN, CITY FINANCE DIRECTOR

DATE

COUNTY TREASURER'S CERTIFICATE:

I, _____, BEING THE DULY ELECTED, QUALIFIED AND ACTING

TREASURER OF THE COUNTY OF OUTAGAMIE, DO HEREBY CERTIFY THAT THE RECORDS IN MY OFFICE

SHOW NO UNREDEEMED TAX SALES AND NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS AS

OF _____ AFFECTING THE LANDS INCLUDED IN THIRD ADDITION TO EMERALD VALLEY.

DATE _____

SIGNED _____

COUNTY TREASURER

There are no objections to this plat with respect to
Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2).
Wis Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20____



Department of Administration

Martenson & Eisele, Inc.

1377 Midway Road
Menasha, WI 54952
www.martenson-eisele.com
Info@martenson-eisele.com
920.731.0381 1.800.236.0381

Planning
Environmental
Surveying
Engineering
Architecture

Drawing No. 1-0534-004
Sheet 2 of 2
This Instrument drawn by: Amy Sedlar



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

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 04-25-2017

RE: Action: Award the Scheig Center, Memorial Park – Plaza Redevelopment contract to Sommers Construction Company, Inc. in the amount of \$94,370.60 with a contingency of 10% for a project not to exceed \$103,807.66.

The 2017 Capital Improvement Plan includes \$132,900 for the replacement of hardscape, storm water, electrical, and landscaping at the Scheig Center. Of the \$132,900 budgeted, \$11,500 was utilized for engineering and construction management, which leaves a balance of \$121,400 for construction.

The bids were received as follows:

Sommers Construction Company, Inc. (low bid)	\$94,370.60
Janke General Contractors	\$130,900.10

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Sommers Construction Company, Inc. (see attached). Therefore, the Parks, Recreation, and Facilities Management Department recommends awarding the contract to Sommers Construction Company, Inc. in the amount of \$94,370.60 with a contingency of 10% for a project not to exceed \$103,807.66.

Please contact me at 832-5572 or at dean.gazza@appleton.org with any questions.



Bid Recommendation

M e m o r a n d u m

PROJECT: SCHEIG CENTER, MEMORIAL PARK . PLAZA REDEVELOPMENT PROJECT
FROM: John Kneer
TO: Mr. Tom Flick, Deputy Director of Parks and Recreation, City of Appleton
DATE: April 14, 2017
RE: Bid Results . Scheig Center, Memorial Park . Plaza Redevelopment Project

Mr. Flick;

The Scheig Center, Memorial Park . Plaza Redevelopment Project was bid on April 13, 2017.

Bids for General Site Construction, Contract ~~%A+~~ Base Bid and Alternate ~~%A1+~~ North Hard Surface Area were received from two (2) contractors. Bids were received from Janke General Contractors Inc. and Sommers Construction Co, Inc.

Qualifying Bids, General Site Construction, for Contract "A" – Base Bid and Alternate "A1" are as follows:

Sommers Construction Co, Inc.:

<i>Base Bid</i>	<i>\$77,726.15</i>
<i>Alternate "A1"</i>	<i>\$16,644.45</i>

Janke General Contractors Inc.:

<i>Base Bid</i>	<i>\$107,635.25</i>
<i>Alternate "A1"</i>	<i>\$23,264.85</i>

Sommers Construction Co, Inc. is the recommended qualified low bidder for Contract ~~%A+~~ Base Bid and Alternate ~~%A1+~~. We are recommending a 10% contingency be maintained on this project.

Please contact us if you have questions concerning the bid results and accompanying recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Kneer', with a stylized flourish at the end.

John Kneer, PLA, ASLA
President



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

MEMO

TO: Finance Committee

FROM: Paula Vandehey, Director of Public Works *PAV*

DATE: April 18, 2017

SUBJECT: The following 2017 Budget adjustments be approved to provide funding for the Intergovernmental Agreement with the Town of Grand Chute:

Stormwater Capital Projects

Northland Pond	-\$6,925
Green Grove Plat	+\$6,925

Sidewalk Reconstruction

Sidewalk Reconstruction	-\$40,189
-------------------------	-----------

Asphalt Reconstruction

Lanser Road and Green Grove Plat	+\$40,189
----------------------------------	-----------

The Town of Grand Chute recently notified us that they have two street re-paving and storm sewer projects that impact City of Appleton properties (see attached maps), and therefore, are requesting a cost share agreement with the City. Attached is a copy of the Intergovernmental Agreement that is consistent with other agreements we have approved for similar projects. This agreement is on the April 25, 2017 Municipal Services Committee agenda for their consideration.

Because we were unaware of these projects until the Town recently moved them up from their general maintenance program to improvement projects, the City did not include any funds for these projects in our 2017 Budget. Therefore, we request approval to reallocate funds from other projects to cover our share of the project costs.

Attachments

CITY OF APPLETON/TOWN OF GRAND CHUTE

Lanser Lane and Green Grove Plat

INTERGOVERNMENTAL AGREEMENT

FOR PULVERIZING, ASPHALT PAVING & STORM SEWER PROJECT

DATE: April 6, 2017

PROJECT TITLE: Lanser Lane and
Green Grove Plat

The Town of Grand Chute, hereinafter called the "Town", through its undersigned duly authorized officers or officials, hereby enters into an agreement with the City of Appleton, through its Public Works Department, hereinafter called the "City", to pulverize, asphalt pave and install storm sewer in the Green Grove Plat and asphalt reclamation on Lanser Lane.

PROPOSED IMPROVEMENT

Pulverize, asphalt pave and install storm sewer in the Green Grove Plat and asphalt reclamation on Lanser Lane in 2017.

COST ESTIMATE AND PARTICIPATION

PROJECT	TOWN SHARE	CITY SHARE
Lanser Road Pavement		\$ 2,626.25
Green Grove Plat Storm Sewer	\$ 531,570.72	\$ 6,924.84
Pavement	\$ 426,807.29	\$ 37,562.64
TOTAL COST		\$ 47,113.73

TERMS AND CONDITIONS:

1. The Town of Grand Chute will be the lead agency for this project.
2. All plans and specifications for the improvements will be provided for City of Appleton's records.
3. The project cost in the agreement is a fixed amount for the City of Appleton.

City of Appleton

Attest:

Printed Name:

By:

Timothy M. Hanna, Mayor

Attest:

Printed Name:

By:

Kami Scofield, City Clerk

Provision has been made to pay the liability
that will accrue under this contract.

Approved as to form:

Anthony D. Saucerman, Finance Director

James P. Walsh, City Attorney

Town of Grand Chute

Attest:

Printed Name:

By:

David A. Schowalter, Town Chairman

Attest:

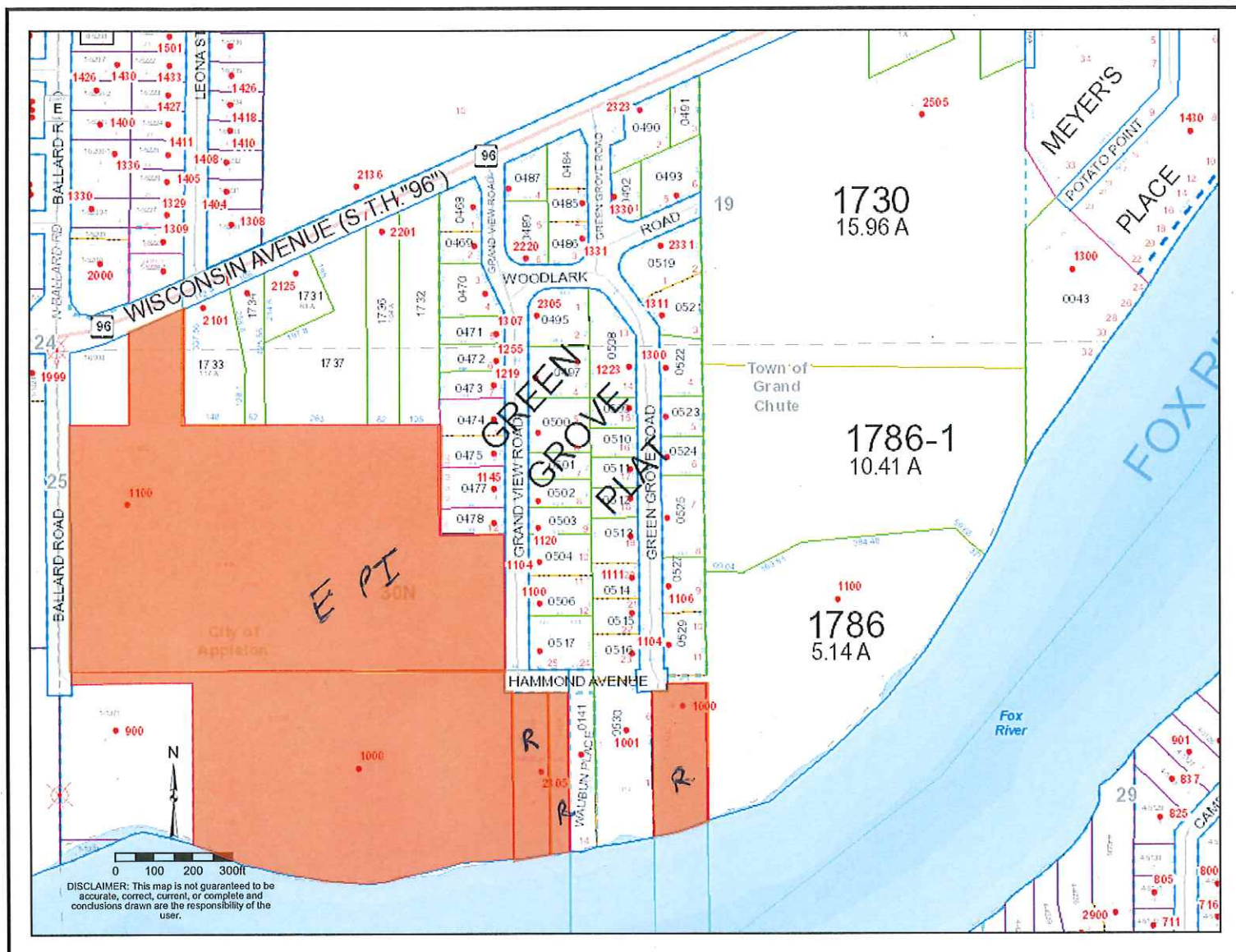
Printed Name:

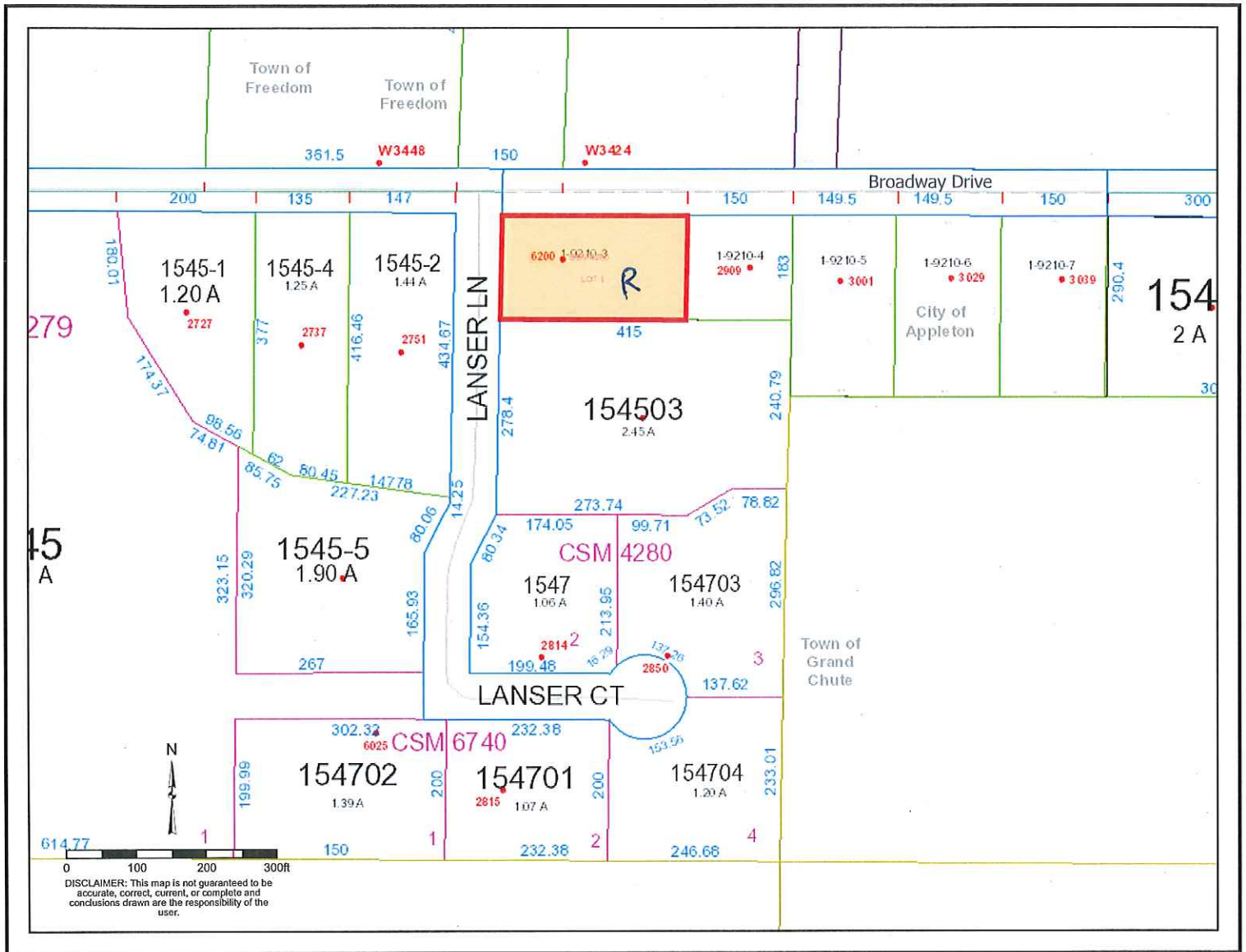
By:

Karen L. Weinschrott, Town Clerk

Approved as to form:

Charles D. Koehler
Attorney for the Town of Grand Chute







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

MEMORANDUM

TO: Finance Committee

FROM: MAYOR TIM HANNA

DATE: April 11, 2017

RE: von Briesen Engagement Letter for Phase V of Exhibition Center

Attached is the von Briesen (vB) Engagement Letter for Phase V of the Exhibition Center.

Phase IV services were approved February 5, 2016 with an end date of December 31, 2016. vB was asked and agreed to continue to provide services under the Phase IV agreement through January 31, 2017 to direct the issuance and response to the Request for Proposal (RFP) to borrow funds to construct the Fox Cities Exhibition Center. Responses to the RFP were due January 13, 2017 and garnered three responses. vB analyzed the responses and recommended pursuing negotiations with a specific lender.

Phase V services have an effective date of February 1, 2017 which coincides with the start of negotiations.

Phase V scope of services are divided into two parts and outlined below:

Phase V, Part 1

- Drafting of the original loan documents
- Anticipate close in draw phase of May 2017 and term of loan close January 2018

Fee for Phase V, Part 1 is a flat fee of \$75,000 based on lenders joining in a syndicated loan and not a bond issuance. Amount is due upon approval of this agreement. If the close date is delayed past June 2017, the flat fee shall be reasonably adjusted according to the extent of the delay.

Phase V, Part 2

- Communicating to interested lenders the financial requirements of the project
- Develop terms of the loan
- Build, verify and audit formulas
- Maintain and communicate financial model to multiple stakeholders
- Organize, communicate with, and bring together multiple lenders to facilitate an agreement between all thus creating a syndicated loan to finance the FCEC.
- Develop, negotiate, draft, re-draft, edit and modify the loan documents
- Engage with and facilitate communication and negotiations with lender's counsel
- Establish and maintain a financing data room related to FCEC financing close

Fee for Phase V, Part 2 is at an hourly rate ranging from \$150 for paralegal work and a range of \$225 to \$425 for attorney work and limited to no more than \$193,000 with services completed prior to January 31, 2018.

The Phase V Engagement Letter also has an Incentive Fee which is outlined below:

Incentive Fee

- Upon closing of the syndicated loan, vB shall be paid 1.25% for the loan amount less all amounts paid under Phase V, Parts 1 and 2, excluding the flat fee.
- Earned and paid at the time the draw loan closes except for \$50,000 which shall be reserved for payment until the successful transition from the draw loan to the term loan.

TAGLaw International Lawyers

Benjamin LaFrombois, Esq.
Direct Telephone
920-233-4704
blafrombois@vonbriesen.com

ENGAGEMENT LETTER

January 31, 2017

City of Appleton
Appleton Redevelopment Authority
Attn: Mayor Tim Hanna
Attn: Director Karen Harkness
100 N. Appleton Street
Appleton, WI 54911

Re: Extension of scope of services under Engagement Letter dated September 1, 2016;
Acknowledgement of completion of services under Engagement Letter dated January 1, 2016, approved February 5, 2016.

Dear Mayor Hanna and Ms. Harkness:

Thank you for asking von Briesen & Roper, s.c. ("**von Briesen**") to continue its representation of the City of Appleton (the "**City**") and to engage with the Appleton Redevelopment Authority (the "**ARA**") for Phase V. As we move into the next phase of our work, I thought it would be good to recap progress to date and then provide an overview of the work we will complete during the next phase. To put in context the work just completed as well as the work we will be undertaking as we move ahead, I will provide a brief recap of Phase I through IV (which is described in greater detail in prior engagement letters) and then provide a more detailed description of the work we are just completing.

Phases I through IV were performed in whole or part while I was an attorney with the law firm of Hinshaw & Culbertson LLP. When I moved from H&C, I continued the work at von Briesen.

- Phase I & II Overview:

Key accomplishments/activities during Phase I included review with City staff of the due diligence related to the purchase agreement, a review of the governing documents of the ARA, a comparison of alternative ownership structures and analysis of the project's eligibility under tax exempt status. Through our work with the City's bond counsel and hotel management we were able to obtain approval on a management and ownership structure that would provide the facility with the greatest opportunity to be financed with tax exempt bonds.

Key accomplishments during Phase II included the approval of the purchase agreement of land by the City from the County, identification and remediation of a deficient financing structure that may have prevented tax-exempt status for the project, identification of current and potential sources and

economic modeling of various techniques that likely saved the City many times the cost of the services provided by us.

- Phase III Review:

Coalition Establishment

Hinshaw provided objective planning recommendations and strategy to assist the development of the ten communities into a unified coalition for the financing, ownership and management of the Fox Cities Exhibition Center ("FCEC"). This work included the creation of an objectively balanced financial contribution plan from each community, and a developmental and operational oversight and participation plan for all of them to be involved in the FCEC's construction and oversight. In developing an 'ask' from each community stakeholder's participation, we objectively weighed the source and quality of the region's hotel taxes, and the financing risk to construct a financial model that allowed the stakeholders to more fully and quickly appreciate and agree upon a plan documented by ordinance(s) and/or intergovernmental agreement(s). A fundamental aspect of our work in this area drove the coalition building amongst the local government stakeholders that allowed all of them to reach agreement that was ultimately memorialized in intergovernmental agreements. As part of this work, we also:

Drafted intergovernmental agreements and ordinance(s) to have such agreements authorized by each of the local government coalition members, including custom ordinances for each municipality, organized binders of the documents, including the original documents applicable to each municipality, and distributed the record books to each municipality to facilitate a clear understanding, especially at the beginning stages where the project must grow to maturity and throughout the life of the project, to be used as a reference and guide to assist each stakeholder in the good management and cooperation of the parties to the agreements; and

Reviewed governmental policies and procedures to allow the Hotel Room Tax Commission to work in harmony with bond documents, the management agreement, and any marketing agreement(s), advised the City with respect to the legal aspects of the hotel room tax commission structure necessary to accommodate bond requirements in particular as it relates to authorization of the central government assessment, collection, auditing and distribution of hotel room tax proceeds, and prepared the draft bylaws of the Room Tax Commission, which became the foundation and underpinnings for the bylaws adopted Monday, March 20, 2017.

Finance

Coordination & Collaboration - We unified the efforts of the City's third-party advisors - (i.e. lender, financial advisor, bond counsel) as well as assisted the City's internal directors who have a role in finance. In carrying out this financial coordination role, we maintained a financial model developed so that the members of the coalition were able to more easily understand the financial issues and their role in such issues and reach accord on the intergovernmental agreements.

Lender - During Phase III we assisted the City with utilizing the financial model to review and discuss how the lending marketplace might respond to a borrowing collateralized by room tax as envisioned in the model. We engaged in discussions with parties familiar with the markets that may lend into the FCEC project. We performed a preliminary review of the market conditions for debt

financing for a project with costs of approximately \$24,000,000 when the exhibition center was contemplated to be constructed above ground. During Phase II, we had identified and contracted with a financial advisor for the project at a fee that was advantageous for the City. Because the real estate purchase agreement was not approved by the City at this time, an alternative path was pursued. During Phase III, we maintained the contact and relationship with the financial advisor as well as others who may serve in similar capacity. The primary focus with respect to the finance piece of the project during Phase III was the financial model and assessing market conditions for an above-ground concept with estimated cost of \$24,000,000. The work relating to contracting with parties who will be involved in the debt structuring was by necessity deferred until the intergovernmental agreements were entered into and the real property transaction completed.

Phase IV builds upon the work done in Phase II and Phase III. During Phase III, we sought to minimize costs by avoiding overlap of services, minimizing errors to diminish gaps in required future services, as well as contribute to the efficient cohesive participation of all of the key professionals in the project. These professionals include, but are not limited to, the City's/ARA's Financial/Municipal Advisor in accordance with the Municipal Securities Rulemaking Board (MSRB), its Bond Counsel, Issuer's Counsel, and Lender if applicable.

Management Agreement

I negotiated and drafted the Fox Cities Exhibition Center Management Agreement, which was fully executed November 18, 2015. The negotiations began with meetings in Chicago to accommodate the owners of the hotel and bad weather which prevented them from being in Appleton. Thereafter negotiations continued for a several day meeting in Appleton followed by additional due diligence by all parties and final negotiations. This Agreement was accomplished with careful timing to coordinate with the intergovernmental agreements and the requirement that the Management Agreement be entered into prior to purchasing the real estate. The real estate closing took place November 24, 2015.

- Phase III continuing services related to environmental indemnification:

We continue to provide advice and counsel respecting the notice of assignment of the environmental indemnity related to real property purchased for the use by the FCEC.

- Phase III Real Estate Closing:

I provided services related to the closing of the transaction with Outagamie County, including title policy review (successfully removed easement exceptions from Schedule BII of the title commitment), preparation of the warranty deed, Wisconsin Real Estate Transfer Return, Assignment of Environment Indemnification Agreement, Right of First Refusal, Closing Statement, and memorializing parking obligations of the City that survive closing and generally coordinated closing activity and requirements.

- Phase IV Financial Advisor Selection Process and Collaboration:

Phase IV services approved February 5, 2016 included an end date of December 31, 2016. We were asked to, and agreed to, continue to provide service under the Phase IV agreement through January 31, 2017 to direct the issuance and response to the Request for Proposal (“**RFP**”) to borrow funds

to construct the Fox Cities Exhibition Center, which was the result of the change to a below ground facility, which increased the amount needed to be borrowed, which required an entirely different strategic approach to be able to finance the costs which increased from approximately \$24,000,000 to approximately \$31,000,000, 29% higher than previously modeled and anticipated. We took on the additional role of finding a new strategic direction for financing and to put in place the potential lenders which would participate in a loan that would raise a sufficient amount to fund the higher construction costs associated with the below ground design. Months of work were spent developing the new strategic direction, communicating it to and educating the stakeholders, other professionals involved in the project and potential lenders. The RFP which was due January 13, 2017 garnered three responses. We reviewed and analyzed the responses and made a recommendation to pursue negotiations with a particular lender. We propose the next phase of services with an effective date of February 1, 2017, coinciding with the negotiations.

In summary, Phase IV was not to have extended past December 31, 2016. We extended the deadline to provide out of scope services to reach the end of the financing request for proposals to assist the City in determining a path forward. Moreover, when the decision was made to construct the FCEC underground, it involved increased costs. The increased costs of the FCEC materially changed how it would be possible to finance the construction costs. The anticipated method of financing the FCEC was to issue bonds to the public markets. With the increased costs, a bond issuance to the public markets would most likely not have raised adequate funds to cover the construction costs. Thus, Phase IV services became an effort to determine a path to borrow adequate funds, given the increased costs of construction. To fulfill our obligation under the Phase IV contract we have addressed the issue of the path forward to borrowing adequate funds to cover the increased construction costs and we extended the deadline to fulfill those services. If the FCEC had been constructed per the above-ground conceptual plan and within the time frame originally proposed, it is reasonable to assume that the Phase IV services would have been completed and that Phase V services would not be needed.

PHASE V SCOPE OF SERVICES

Phase V: Implement new strategic plan to finance the increased FCEC costs.

This letter memorializes the completion of Phase IV services. This Phase V scope of services shall be divided into two parts.

Phase V Part 1. The drafting of the loan documents: We are pleased to offer a flat fee for the drafting of the loan documents. The flat fee excludes work related to the organizing of the lending group and negotiating the terms as well as the subsequent rounds of drafting that may be needed at the request and in conjunction with the lending group and lenders' counsel. For the document preparation, we will perform the services for \$75,000. The flat fee services will be deemed accomplished upon the delivery of a full set of loan documents for review by lenders' counsel. These documents are listed on Exhibit A. This agreement does not include the cost of legal opinion letters performed by non-von Briesen attorneys. After the first set of documents are delivered to the lenders, subsequent edits and modifications shall be provided on an hourly basis consistent with Phase V Part 2.

Phase V Part 2. Finance Services to arrange lenders to make a syndicated loan including financial modeling:

We were retained to represent the City and ARA in connection with the financing of the construction costs of the FCEC by making contact with lenders and to assist with obtaining financing by those lenders. These services are law related services as defined under the ethics rules for lawyers and may not be subject to the same protections afforded legal services such as attorney client privilege. These services do not include the giving of legal advice nor the review of or preparation of contracts or other agreements. The essential service provided is to identify interested lenders, communicate to them the requirements of the project, develop terms of the loan, build, verify and audit formulas, maintain and communicate a financial model of the proposed terms of the loan, provide information to the lenders with the hope of securing a financing commitment, create analysis and facilitate the organizing and arranging (a term of art referring to the party that forms the terms, communicates them, persuades and informs potential lenders and manages the complicated process of obtaining commitments and then completing the robust, complicated and delicate requirements to close such a loan) of the loan. We will attend meetings to organize lenders, negotiate terms and facilitate communication between all parties as necessary to perform the services. The services will require substantial engagement with the lenders and their counsel to facilitate their understanding of the transaction and to facilitate the agreement between the lending institutions. We will establish and maintain a financing data room related to the FCEC finance closing. These services shall include the negotiation of the terms of the loan and working with lenders to reach an agreement on those terms. Generally, the services under Phase V Part 2 which are not legal services shall be law related services.

Nothing in this Agreement shall be construed as an assumption by von Briesen of the responsibilities or duties of the Municipal Advisor or Financial Advisor. von Briesen's services shall be rendered compatibly and in coordination with the services provided by the Municipal Advisor or Financial Advisor, particularly Speer Financial, which has been engaged as the MSRB licensed party to advise the City and ARA. We shall be entitled to rely upon Speer Financial's proper performance of their obligations pursuant to their contract with the City.

Legal Services:

We were retained to represent the City and ARA as described above with respect to legal services related to the loan we are attempting to secure for the financing of the construction costs of the FCEC. The services under this Phase V Part 2 include the work related to the editing and modification of the loan documents after the first set of documents is delivered. Generally, the legal services shall be all of those services related to Phase V that are of a legal nature and content.

It is anticipated that the loan contemplated herein shall close in the draw phase in May 2017 and the term loan shall close January 2018. The flat fee services should be performed between the date of this letter and May 2017. If the closing date is delayed past June, the flat fee shall be reasonably adjusted according to the extent of the delay. The flat fee anticipates a set of documents based upon participating lenders joining in a syndicated loan and not a bond issuance. In the event the transaction must be re-structured because of a change in circumstances, the flat fee shall be reasonably adjusted according to the work that will need to be performed under those new circumstances. The flat fee shall be paid upon approval of this Agreement. The hourly rate services shall be submitted monthly with the first invoice including services starting February 1, 2017.

FEES FOR SERVICES

The Phase V Part 2 work shall be performed at an hourly rate ranging from \$150.00 for paralegal work and a range of \$225 to \$425.00 for attorney work. We will attempt to use the lowest cost resource appropriate to the work needing to be accomplished.

At your request, we have agreed to limit the Phase V Part 2 fees to no more than \$193,000.00. The limit shall include hourly work within the scope described above occurring prior to January 31, 2018. If the closing of the term loan occurs later than January 31, 2018, the limit shall be reasonably increased by an amount equal to the work required to close the term loan, or otherwise work toward a closing of the loan that is provided after January 31, 2018. All work related to legal opinion letters performed by von Briesen attorneys shall not be counted against the limit.

Incentive Fee: In the event the loan contemplated herein closes, von Briesen shall be paid a fee equal to 1.25% of the loan amount less all amounts paid under Phase V Part 1 and 2 hourly services, which excludes the flat fee. The incentive fee shall be paid and earned at the time the draw loan closes except for \$50,000 of the fee which shall be reserved for payment upon the successful transition from the draw loan to the term loan. von Briesen shall continue to provide services described herein through the transition to the term loan.

You acknowledge that we are not general counsel for the City or the ARA and that our acceptance of this engagement does not involve an undertaking to represent the City's and the ARA's interests in any matter other than that described above. Furthermore, you acknowledge that our representation does not entail an obligation to advise you of subsequent legal developments related to the matter for which we are retained after completion of our representation.

While this letter is intended to deal with the specific legal services described above, these terms and conditions will also apply to any additional legal services that we may agree to provide that are outside the initial scope of our representation.

We are pleased to have this opportunity to be of service to the City and the ARA. If at any time during the course of our representation you have any questions or comments about our costs, services, or any aspect of how we provide services, please do not hesitate to call me.

Very truly yours,

von BRIESEN & ROPER, s.c.

Benjamin LaFrombois, Esq.

BDL:sf
enc.

The City of Appleton agrees to retain the services of von Briesen & Roper, s.c. under the terms and conditions specified above.

CITY OF APPLETON

By: _____ Date: _____
Tim Hanna, Mayor

The Appleton Redevelopment Authority agrees to retain the services of von Briesen & Roper, s.c. under the terms and conditions specified above.

APPLETON REDEVELOPMENT AUTHORITY

By: _____ Date: _____
Karen Harkness, Director

HINSHAW

& CULBERTSON LLP

ATTORNEYS AT LAW

100 West Lawrence Street
Appleton, WI 54911-5754

920-738-7550

920-738-9294 (fax)

www.hinshawlaw.com

January 1, 2016

Karen Harkness
Community and Economic Development
City of Appleton
VIA EMAIL

Re: Fox Cities Exhibition Center

Dear Karen:

Thank you for the continued opportunity to serve the City of Appleton (City) with respect to the Fox Cities Exhibition Center (FCEC). Below you will find a summary of the work we recently completed in our phase III of services of which the flat fee portion of our work pertaining to the closing of the real estate for the construction of the FCEC on November 25, 2015 and the hourly fee portion of our phase III work will be concluded on December 31, 2015.

As we move into our phase IV of our work I thought it would be good to recap our progress to date and then provide an overview of the work we will complete during phase IV. To put in context the work just completed as well as the work we will be undertaking as we move ahead, I will provide a brief recap of Phase I and Phase II (which is described in greater detail in prior engagement letters) and then provide a more detailed description of the work we are just completing.

Phase I & II Overview:

Key accomplishments/activities during Phase I included review with City Staff of the due diligence related to the purchase agreement, a review of the governing documents of the Appleton Redevelopment Authority, a comparison of alternative ownership structures and analysis of the project's eligibility under tax exempt status. Through our work with the City's bond counsel and hotel management we were able to obtain approval on a structure that would provide the facility with the greatest opportunity to be financed with tax exempt bonds.

Key accomplishments during Phase II included the approval of the purchase agreement by the City of land from the County, identification and remediation of a deficient financing structure that may have prevented tax-exempt status for the project, identification of current and potential sources and economic modeling of various techniques that could likely save the City many times the cost of our services.

Building on the Barger Tradition

Phase III Review:

1. Coalition Establishment

Hinshaw provided objective planning recommendations and strategy to assist the development of the ten communities into a unified coalition for the financing, ownership and management of the FCEC. This work included the creation of an objectively balanced financial contribution plan from each community, and a developmental and operational oversight and participation plan for all of them to be involved in the FCEC's construction and oversight. In developing an 'ask' from each community stakeholder's participation, we objectively weighed the source and quality of the region's hotel taxes, and the financing risk to construct a financial model that allowed the stakeholders to more fully and quickly appreciate and agree upon a plan documented by ordinance(s) and or intergovernmental agreement(s). A fundamental aspect of our work in this area drove the coalition building amongst the local government stakeholders that allowed all of them to reach agreement that was ultimately memorialized in intergovernmental agreements. As part of this work, we also:

- a) Drafted intergovernmental agreements and ordinance(s) to have such agreements authorized by each of the local government coalition members, including custom ordinances for each municipality and follow-up to collect the executed agreements; and
- b) Reviewed governmental policies and procedures to allow the Hotel Tax Commission to work in harmony with bond documents, the management agreement, and any marketing agreement(s). Hinshaw advised the City with respect to the legal aspects of the hotel room tax commission structure necessary to accommodate bond requirements in particular as it relates to authorization of the central government assessment, collection, auditing and distribution of hotel room tax proceeds.

2. Finance

Coordination & Collaboration – Hinshaw unified the efforts of the City's prospective third-party advisors – (i.e. lead lender, financial advisor, bond counsel) as well as the City's internal directors who have a role in finance. In carrying out this financial coordination role, Hinshaw maintained a financial model developed so that the members of the coalition were able to more easily understand the financial issues, their role in such issues and to reach accord on the intergovernmental agreements.

Lender – During Phase III Hinshaw assisted the City with utilizing the financial model to review and discuss how the lending marketplace might respond to a borrowing collateralized by room tax as envisioned in the model prepared by Hinshaw. We engaged in discussions with parties familiar with the markets that may lend into this FCEC project. Hinshaw performed preliminary review of the market conditions for debt financing. During Phase II, Hinshaw had identified and contracted with a financial advisor for the project at a fee that was advantageous for the City. This contract did not move forward because the real estate purchase agreement was not approved by the City at that time. During Phase III, we maintained the contact and relationship with the financial advisor as well as others who may serve in that capacity. The primary focus with

January 1, 2016

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respect to the finance piece of the project during Phase III was the financial model and assessing market conditions. The work relating to contracting with parties who will be involved in the debt structuring was by necessity deferred to Phase IV. Now that the real property is purchased, Phase IV will include the scope of services that builds upon the work done in Phase II and Phase III. During Phase III, Hinshaw has sought to minimize costs by avoiding overlap of services, minimizing errors to minimize gaps in required future services, as well as contribute to the efficient cohesive participation of all of these key professionals in the project. These professionals will include but are not limited to the identification of the City's / ARA's Financial / Municipal Advisor in accordance with the Municipal Securities Rulemaking Board (MSRB), its Bond Counsel, Issuer's Counsel, and Lender if applicable.

3. Management Agreement

Hinshaw negotiated and drafted the Fox Cities Exhibition Center Management Agreement, which was fully executed November 18, 2015.

4. Real Estate Closing

Hinshaw provided services related to the closing of the transaction with Outagamie County, including title policy review (successfully removed easement exceptions from Schedule BII of the title commitment), preparation of the warranty deed, Wisconsin Real Estate Transfer Return, Assignment of Environment Indemnification Agreement, Right of First Refusal, Closing Statement, and memorializing parking obligations of the City that survive closing and generally coordinated closing activity and requirements.

Phase IV:

This letter is to memorialize the agreement we have reached regarding our firm's deliverables and fees for the project's next phase (Phase IV) of work. Our client in this work will continue to be the City of Appleton and the Appleton Redevelopment Authority (hereinafter collectively "Client" or "Clients") whose interests are aligned in this matter. As such, there is no expectation of confidentiality between the Clients. The City shall be the party responsible for the fees identified herein.

Phase IV Flat Fee Services:

The scope of work we collectively created with the Clients includes three primary aspects of the project for which our firm will provide as flat fee services during Phase IV of this engagement:

(1) Finance-Related Services

As noted above, Phase I, II and III laid the foundation for Phase IV Financing, which is where the planning will most likely result in a completed financing package for the FCEC. The following is a description of those items which will need to be accomplished to finance the construction of the FCEC.

Financial Advisor Selection Process and Collaboration - Hinshaw will participate in the Financial Advisor Selection Process. Hinshaw will coordinate the efforts of the City's prime independent, third-party advisors – (i.e. lender, underwriter, municipal advisor, bond counsel) as well as the City's internal directors who have a role in finance. In carrying out this financial coordination role, Hinshaw Consulting will maintain the financial model to support the efforts of the financial advisor, underwriter and others with a role in financing the FCEC to reach accord on specific deal structuring terms. Hinshaw will further assist the City in its identification of, scoping services for and negotiating fees with other professionals. Hinshaw will continue to seek to minimize costs by avoiding overlap of services, minimizing errors to minimize gaps in required services, as well as contribute to the efficient cohesive participation of all of these key professionals in the project. The professionals identified will include, but are not limited to, the Financial / Municipal Advisor in accordance with the Municipal Securities Rule Making Board (MSRB), its Bond Counsel, Issuer's Counsel and Lender/Underwriter if applicable. Given the uncertain form and timetable for the project's funding, one of various funding paths may be selected which will determine when Hinshaw's duties under Phase IV will conclude with respect to Finance-Related Services. Although we cannot predict the precise path the financing will take, we would like to identify alternate paths so that we can both have a reasonable expectation of the services to be provided under Phase IV Financing. The description of the paths are as follows:

- (a) The primary objective includes a path that combines construction financing within the long term financing package. If this package is identified as the most advantageous to the Project, then Hinshaw's Phase IV Finance-Related Services will be concluded upon the closing of the financing package.
- (b) A second path may include construction financing package that is distinct from the long-term financing package. In this situation the construction financing will be documented separately from the long-term financing package and the long-term financing package will be deferred until the construction is complete. The reason this option may be utilized is because of the interest savings by not having to draw the entire cost of the project before the money is needed. The interest savings of this type of approach would need to be balanced with the inherent market risks of deferring the locking in of long term interest rates. Hinshaw will assist in exploring the available options while working with the financial advisor and other professionals that can provide advice and counsel so that the stakeholders have information necessary to decide the best course of action. In this instance, Hinshaw's Phase IV Finance-Related Services will be concluded upon the closing of the construction loan and the completion of all legal documentation relating to that loan. Subsequent work relating to the long-term financing package would be outside the scope of Phase IV.
- (c) In the event that Client does not proceed with the financing options contemplated in (a) or (b) above and no suitable alternative is agreed upon, Hinshaw's Phase IV Finance-Related Services will be deemed completed on July 31, 2016.

(2) Issuer's Counsel Services

Hinshaw will act as local counsel for bond issuance including opinion letters to the City's Bond Counsel, drafting of loan documents (if requested by bond counsel) and other required documents, and coordinating the completion and delivery of all required information to Bond Counsel. Hinshaw will participate in finance meetings, negotiations, and closing to facilitate and expedite financing.

(3) Development Process Advice

Hinshaw will provide input with respect to varying process options as to how to manage the development and construction of the Exhibition Center project. This advice shall include a review the different delivery methods available to the City and the pros and cons of the methods. Additionally, Hinshaw will advise on how to initiate the process selected. This scope is limited to advice and counsel and does not include the work arising from the selected development process.

Scope limit on document review: Under the Phase IV Flat Fee portion we shall prepare and review the financing documents. The Flat Fee portion includes up to three rounds of comments by bond counsel and other interested parties. Prior to the third round of comments, we will inform and advise the City of the status and mutually cooperate to minimize further comments and additional costs. After the third round of comments, the services for completing drafting shall be billed at hourly rates for the time expended.

Phase III/IV Hourly Services:

Post-closing follow-up to the real estate closing:

Complete steps necessary following the closing of a transaction. In addition, provide advice and counsel respecting the notice of assignment of the environmental indemnity. Real Estate services as described herein shall be provided primarily by Attorney Ben LaFrombois.

Our firm's hourly services will be provided by our firm's professionals whose particular expertise is required to advance the deliverables outlined above. The parties anticipate that members of the Hinshaw team will include Paul Nicolosi (Partner with extensive municipal experience with projects such as the Exhibition Center), Gino Galluzzo (Partner with extensive municipal experience with projects such as the Exhibition Center), Kevin Schauer (analyst with extensive experience with municipal projects of this type), Greg Cox (Partner with in-depth experience with intergovernmental agreements and the strategies to enact them), Kelly Hintzsche (experienced associate with experience with similar projects), Courtney Cocciemiglio (attorney and architect with commercial real estate, design and development expertise), Alyssa Campbell (Appleton based associate to support the above services in an economical and efficient manner) and others as deemed appropriate by our firm. We will apply the hourly rates typically charged for these professionals. Hourly fees shall be capped at \$24,000. Any services in excess of \$24,000 shall be approved in writing by the City prior to the services being performed. Out of scope services shall be approved in writing by the City prior to those services being performed.

January 1, 2016

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All hourly fees shall be billed and paid monthly. Frequently multiple events are contained in a single time entry with sufficient detail to describe the consolidated work provided by the professional and the time for all such events aggregated.

The hourly rates for the attorneys listed above range from \$230 to \$465 per hour. The hourly rates of other attorneys which may be used range from \$200 to \$465 per hour.

The Basic Relationship Terms (Client, Direction, Disclosure & Confidentiality including Disclosure regarding Hinshaw Law & Consulting) are unchanged from prior phases of services, unless the more specific and detailed provision is contained herein such as the identification of the client as both the City of Appleton and the Appleton Redevelopment Authority.

It is the intent of the City and Hinshaw to cooperatively pursue the scope of services described above. The City and Hinshaw will communicate regularly regarding progress toward completing the scope of services. Hinshaw shall work diligently toward achieving the objectives defined above without any guarantee with respect to results.

The Ongoing General Services are unchanged from prior phases of services.

Other than as listed below, the miscellaneous items remain unchanged from prior phases of services.

Compensation and Reimbursable Expenses

We have agreed that our firm's services and fees under the Phase IV Flat Fee will be a flat fee of \$240,000.00, payable in equal monthly installments to be fully paid by the end of July, 2016. All monthly payments of the flat fee are due on the 15th of the respective month without further invoicing and should be made payable to Hinshaw Consulting in reference to the matter number to be assigned upon approval of this letter and sent to:

Attn: Jose Leon
222 N. LaSalle Street
Suite 300
Chicago, IL 60601

The hourly fee portion of our firm's services will be billed monthly and shall be due within thirty days from the date of the invoice.

In the event payment is not timely received, Hinshaw will issue an invoice notifying the Client of the amount due.

Phase IV work will conclude no later than July, 2016, subject to the Client's approval.

In addition to these fees, the City shall be responsible for payment of all costs and disbursements reasonably incurred by Hinshaw on its behalf to the extent that said expenses are approved in

January 1, 2016

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writing and in advance by the Client. Such costs and disbursements may include, but are not limited to, photocopying, travel expenses (economy class unless otherwise approved in advance), and internet research charges such as Westlaw or other specialized database related to the services being provided.

This Agreement is made effective as of the 1st day of January, 2016.

Yours truly,

HINSHAW & CULBERTSON LLP



Benjamin D. LaFrombois

920-380-2067

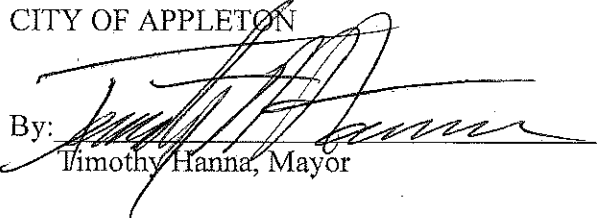
blafrombois@hinshawlaw.com

BDL:sf

Accepted and agreed to:

CITY OF APPLETON

By:



Timothy Hanna, Mayor

Date: 3/1/16



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

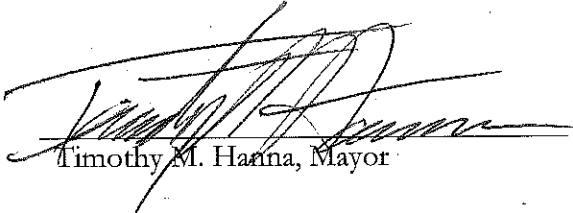
CITY OF APPLETON
a Wisconsin Municipal Corporation

Agreement:

Fox Cities Exhibition Center
Phase IV Services
Hinshaw & Culbertson, LLP

Date: March 1, 2016


By:


Timothy M. Hanna, Mayor

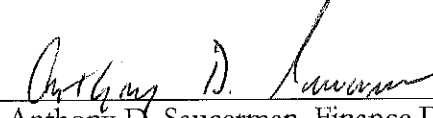
Attest:


Kami Lynch, City Clerk

Approved as to form:


James P. Walsh, City Attorney

**Countersigned pursuant to §62.09(10), Wis.
Stats.:**


Anthony D. Saucerman, Finance Director



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

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 4/25/2017

RE: Action: Reject bid from Slusarek Construction, Inc. in the amount of \$75,500 for the Arbutus Park Retaining Wall Project.

The 2017 Capital Improvement Plan includes \$65,000 to repair the retaining wall at Arbutus Park. Previously, \$5,000 had been utilized for engineering services, leaving a balance of \$60,000 for construction. The design estimate for this project was \$45,000. Only one bidder came to the mandatory pre-bid meeting and then proceeded to bid on the project. The bid was \$30,500 over our estimate.

The bids were received as follows:

Slusarek Construction, Inc. (low bid) \$75,500

After conferring with our consulting engineer, the Parks, Recreation and Facilities Management Department is recommending rebidding the project to seek bids that are more competitive.

Please contact me at 832-5572 or at dean.gazza@appleton.org with any questions.



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

**PARKS, RECREATION & FACILITIES
MANAGEMENT**

Dean R. Gazza, Director

1819 East Witzke Boulevard
Appleton, Wisconsin 54911-8401
(920) 832-5572 FAX (920) 993-3103
Email - dean.gazza@appleton.org

TO: Finance Committee

FROM: Dean R. Gazza

DATE: 4/25/2017

RE: Action: Award the "2017 Alicia Park Hillside Stabilization Project" contract to Radtke Contractors, Inc in the amount of \$39,000 with a contingency of \$8,000 for a project total not to exceed \$47,000

The 2017 Capital Improvement Plan includes \$70,000 to stabilize the hillside at Alicia Park. Of that amount, \$3,573 has been utilized for professional services, leaving a balance of \$66,427 for construction. In 2016 a large section of the hillside sheered away and fell down the hill. We then contracted with a consulting engineer to complete a geotechnical analysis of the area that failed. The report indicated that the high static water table in conjunction with poor soils had lead to the failure. This project will address the poor soils, high water table, and restoration of the site.

The bids were received as follows:

Radtke Contractors, Inc.	\$39,000
Advance Construction, Inc.	\$68,888
Maroszek Excavating, Inc.	\$75,000
Freedom Excavating, Inc.	\$76,425

Our consulting engineer has written the City of Appleton a formal letter of recommendation to award the contract to Radtke Contractors, Inc. The Parks, Recreation, and Facilities Management Department has also reviewed the bids and is in agreement with the engineer's recommendation. Therefore, we recommend awarding the contract to Radtke Contractors, Inc in the amount of \$39,000 plus a contingency of \$8,000 only to be utilized as needed.

Please contact me at 832-5572 or at dean.gazza@appleton.org with any questions.

CONTRACT AMENDMENT AND CHANGE ORDER

Change Order No. 1
Date 04/19/17

Contract No. 73-16 for the following public work : Arbutus Park Stormwater Lift Station Reconstruction

between August Winter & Sons, Inc. , 2323 N Roemer Road, Appleton, WI 54912-1896
(Contractor Name) (Contractor Address)

and the City of Appleton dated: 01/11/17 is hereby changed in the following particular wit:

Item No.	Account No.	Current Contract Amount	Current Contingency	C.O. Amount (+/-)	Contingency (+/-)	New Contract Total	New Contingency Total
1	5230.6809.4	\$213,775.00	\$21,377.50	\$0.00	\$0.00	\$213,775.00	\$21,377.50
2	4350.6802.4180	\$0.00	\$0.00	\$45,925.00	\$4,500.00	\$45,925.00	\$4,500.00
3						\$0.00	\$0.00
4						\$0.00	\$0.00
5						\$0.00	\$0.00
6						\$0.00	\$0.00
7						\$0.00	\$0.00
8						\$0.00	\$0.00
9						\$0.00	\$0.00
10						\$0.00	\$0.00
Total		\$213,775.00	\$21,377.50	\$45,925.00	\$4,500.00	\$259,700.00	\$25,877.50

Reason for Change: Single bid for retaining wall work significantly over budget and subsequently rejected. Entire scope of that project included in this amendment.

The Contract Time will be (increased / decreased / unchanged) by this Change Order: Five (5) Days

The Date of Completion as of the date of this Change Order therefore is: 08/03/17

Finance Committee Agenda Date: 04/25/17

Date approved by Council: _____



AUGUST WINTER & SONS, INC. MECHANICAL CONTRACTORS

2323 NORTH ROEMER ROAD * APPLETON, WI 54911
PO BOX 1896 * APPLETON, WI 54912
PHONE: 920-739-8881 * FAX: 920-739-2230

April 17, 2017

City of Appleton
Sue Olsen

CO.1

CHANGE ORDER PRICE AND BREAKDOWN

Project/Job#: City of Appleton- Arbutus Park

Description: Added cost for site clearing and grubbing, erosion control, retaining wall, and restaration

Our change order price and breakdown follows:

August Winter

Material.....	\$	-
Labor..... 80 hrs	\$	4,460
Direct Costs.....	\$	1,472
Equipment Rental.....	\$	13,400
Indirect Costs.....	\$	226
Subtotal.....	\$	19,558
Overhead.....	\$	2,934
Total.....	\$	22,491

Subcontracts

Total Subcontractor Costs.....	\$	20,890
Subcontractor Markup.....	\$	2,089
Total Subcontractor Costs w/overhead.....	\$	22,979
 Total AWS/Subcontractor Costs.....	\$	45,470
Profit/Bond.....	\$	455

Change Order Total..... \$ 45,925

Time extension required is 5 days.

This quotation based upon acceptance within 30 days.

Exclusions: 0

Kurt Van Grinsven

August Winter & Sons, Inc.
PH: 920-739-8881 FX: 920-739-2230

VISIT OUR WEB SITE AT WWW.AUGUSTWINTER.COM

Branch Office: 5613 Schofield Avenue * Schofield, WI 54476 * PH: 715/355-7555 * FAX: 715/355-9048

HVAC * PLUMBING * TANK FABRICATION * PROCESS PIPING * IND. SHEETMETAL

SPECIALTY METAL FAB. * ASME PRESSURE VESSELS * ASME CODE WELDING * 24 HR. SERVICE * ENGINEERING

STATE OF WISCONSIN LICENSED MASTER PLUMBERS, LICENSE NUMBER 227170

REAL ESTATE DONATION CONTRACT

The City of Appleton, a Wisconsin municipal corporation, hereinafter called "Donee", hereby offers to acquire from Wisconsin Central Ltd., a Delaware corporation, hereinafter called "Donor", the interest of Donor in the real estate and improvements described in Section 2 herein, hereinafter described and called the "Premises", on the following terms and conditions:

1. **Donation.**

a.) Donor will donate and convey its interest in the Premises, including all improvements located thereon, to Donee in accordance with the terms, conditions and reservations contained herein. No monetary consideration shall be paid by Donee to Donor for the Premises.

b.) Donee warrants and represents to Donor that Donee is a tax exempt entity which is qualified under the terms and provisions as set forth by the Internal Revenue Service (the "IRS") to receive tax deductible donations.

b.) Donee agrees to take all actions and execute all documents, including but not limited to, the Donee Acknowledgement section of IRS Form 8283, attached hereto as Exhibit "D", and Charitable Contribution Receipt, attached hereto as Exhibit "E".

2. **Property.** The Premises for which Donor is conveying its interest are located in the City of Appleton, County of Outagamie, State of Wisconsin, and consist of the following:

a.) Approximately 0.3 acres of vacant land as shown in yellow shading on the plat labeled Exhibit "A", dated March 15, 2010, attached hereto and made a part hereof.

b.) Donor's southernmost (unused) railroad trestle, and all appurtenances thereon, crossing the Fox River and extending from the east bank to the west bank of the Fox River, all as shown in red outline on said Exhibit "A".

c.) The unused railroad trestle over the Telulah Water Power Canal, as shown in yellow on the plat labeled Exhibit "B", attached hereto and made a part hereof.

d.) The unused railroad trestle over the Fox River as shown in yellow on the plat labeled Exhibit "C", attached hereto and made a part hereof. In addition, the land adjacent to said trestle, identified in Exhibit J.

3. **Conveyance.**

a.) Donor shall convey or cause the Premises described in Section 2a herein to be conveyed to Donee by Quit Claim Deed, hereinafter called the "Deed", subject to the exceptions and reservations contained in this Contract.

b.) Donor shall convey or cause the Premises described in Section 2b herein to Donee by Bill of Sale, in the form labeled Exhibit "F", attached hereto and

made a part hereof.

c.) Donor shall convey or cause to be conveyed the Premises described in Section 2c herein by Bill of Sale, in the form labeled Exhibit "G", attached hereto and made a part hereof. ~~Donor makes no representation to Donee that Donor has any ownership rights or interest in the Premises described in Section 2c herein, and Donor's agreement to issue a Bill of Sale is at the request of the Donee and is for the purpose of extinguishing Donor's interest, if any, in said Premises described in Section 2c herein.~~

d.) Donor shall convey or cause to be conveyed the Premises described in Section 2d herein. The trestle described in Section 2d shall be conveyed by Bill of Sale, in the form labeled Exhibit G, attached hereto and made a part hereof. The real property identified in Exhibit I and depicted in Exhibit J, shall be conveyed by Quit Claim Deed in the form labeled Exhibit _____ attached hereto and made a part hereof.

e.) Donor makes no representation to Donee that Donor has any ownership rights or interest in the ~~p~~Premises described in Sections 2a, 2b, 2c or 2d herein, and Donor's agreement to issue ~~a~~Bills of Sale and Quit Claim Deeds s is at the request of the Donee and is for the purpose of extinguishing Donor's interest, if any, in said Premises described in said Sections 2d herein.

ef.) Donee shall acquire the Premises and any improvements thereon in an "as-is" condition and subject to all faults of every kind and nature whatsoever, whether latent or patent and whether now or hereafter existing. Donee represents and warrants to Donor that Donee has not relied, and shall not rely, upon any representations or statements or the failure to make any representation or statement, by Donor or Donor's agents or employees or by any person acting, or purporting to act, on behalf of Donor. Donee specifically agrees that Donor shall not be obligated to do any restoration, repairs, remediation or other work in connection with the Premises, that Donor shall not be liable for any restoration, repairs, remediation or other work necessary to cause the Premises to meet any applicable laws, ordinances, requirements, limitations, restrictions, regulations or codes, or be suitable for any costs, expenses, liability and damages, including attorneys' fees, incurred or arising in connection with any such restoration, repairs, remediation or other work. Donee waives, releases, acquits and forever discharges Donor, its employees and agents and any other person acting on behalf of Donor, of and from any and all claims, actions, causes of action, liabilities, demands, rights, damages, cost, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Donee now has or may have or which may arise in the future on account of or in any way growing out of or in connection with any Hazardous Materials or Other Conditions presently on, under, from or affecting the Premises known or unknown or any law or regulation applicable thereto. The provisions in this Section 3d shall survive the closing of this transaction, with it being rebuttably presumed that any Hazardous Materials or Other Conditions identified on the Premises post-closing were present in their location and concentration prior to Closing, and with Donee assuming the burden ~~of~~ proof to rebut the presumption.

5. Exceptions. This Contract and the Deed shall be subject to and in accordance

with the following exceptions, reservations and conditions:

- (A) standard exceptions of the Title Company in its title policies issued in the state in which the Premises are located.
- (B) special taxes or assessments for improvements not yet completed, if any.
- (C) installments not due at the date hereof of any special tax or assessment for improvements completed, if any.
- (D) general taxes, if any, for the tax year prior to the year in which the Deed is delivered and subsequent years. If the Premises are locally assessed for the year in which the Deed is delivered, the taxes for such year shall be prorated as of the date on which the Deed is delivered on the basis of the most recent tax bill, unless the payment of taxes has been assumed by a tenant. If the Premises are assessed as railroad operating property by the State in which the Premises are located, then the Donor agrees to pay, when due, taxes for the year in which the deed is delivered and prior years, assessed in Donor's name.
- (E) building, building lines and use or occupancy restrictions, zoning and building laws or ordinances, and other laws, ordinances, requirements, limitations, restrictions, regulations and codes which are or may be imposed upon the Premises by any governmental authority having jurisdiction thereof.
- (F) public roads and highways, if any.
- (G) judgment liens; however, any judgment against Donor which may appear of record as a lien against the Premises shall be settled and satisfied by Donor if and when it is judicially determined to be finally valid, and Donor shall indemnify the Donee for all loss arising out of Donor's failure to have such judgment lien so settled and satisfied. This provision shall survive the Closing of this transaction and the delivery of the Deed.
- (H) covenants, conditions, licenses, easements, and restrictions of record.
- (I) The sale of the Premises is subject to all of the rights of the owner of the mineral estate in said Premises, if any. If, however, it is found that Donor has mineral right in the Premises, such rights will not be retained by Donor but will pass to Donee by the Quitclaim Deed from Donor as set forth in Section 3a herein.
- (J) rights of any government agencies, public or quasi-public utilities for the use, maintenance, repair, replacement and reconstruction of existing driveways, roads and highways, conduits, sewers, drains, water mains, fiber optics cables and/or communications systems, gas lines, electric power lines, wires, and other utilities and easements.

(K) acts by, through or under Donee.

6. **Closing.** The Closing shall occur within sixty (60) days following the execution of this Contract by Donor and Donee, at the time, date and location mutually agreeable to Donee and Donor. Donee agrees to purchase, affix and cancel all documentary stamps in the amount prescribed by statute, and pay all required transfer taxes and fees incidental to the recordation of said Deed. Donee shall apply for any lot splits or tax divisions with the appropriate local authorities at Donee's cost and expense.
7. **Real Estate Commission.** Donee agrees to indemnify, defend, and hold harmless Donor against any and all claims by any broker, attorney, or agent engaged by Donee for a fee or commission arising out of this Contract. Donor agrees to indemnify, defense, and hold harmless Donee against any and all claims by any broker, attorney, or agent engaged by Donor for a fee or commission arising out of this Contract. The provisions in this paragraph shall survive the Closing.
8. **Regulatory approval.** If Donor is required to obtain regulatory approval of this transaction by any agency, the Closing date shall be extended for the time required to obtain such approval. If such approval cannot be obtained within sixty (60) days, either party may terminate this Contract by written notice to the other.
9. **Liquidated damages.** Time is of the essence of this Contract. If Donee shall default or fail to perform the requirements of this Contract within the time limits herein specified, the Donor may declare this Contract terminated. In the event of default by Donor, Donee's sole remedy is to declare this Contract terminated.
10. **Notices.** All notices and demands herein required shall be in writing sent by telecopier, overnight courier or certified or registered mail to the other party at the address shown herein. Notices sent by (i) telecopier shall be deemed made upon confirmed transmission; (ii) overnight courier shall be deemed made one business day after being sent; and (iii) certified or registered mail shall be deemed made three days after mailing.
11. **Condemnation.** If, prior to the Closing of this sale, all or any portion of the Premises are condemned, this Contract shall be considered mutually terminated.
12. **Legal Description and Survey.** The legal description to be used in the Deed shall be furnished by Donor to Donee within ten (10) business days following Donor's acceptance of this Contract. In the event a survey is required in order to prepare the legal description, or a survey is required by state or local statute to consummate this transaction, then Donee shall, at Donee's expense, obtain and deliver to Donor a plat of survey and legal description of the Premises described in Section 2a herein no later than seven (7) days prior to Closing.
13. **Miscellaneous.**

- (A) Time is of the essence in the performance of each and every one of the terms of this Contract. Whenever any determination is to be made or action to be taken on a date specified in this Contract, if such date shall fall upon a Saturday, Sunday or legal holiday, the date for such determination or action shall be extended to the first business day immediately thereafter.
- (B) This Contract embodies the entire agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties concerning the Premises. No oral statements shall be of any force or effect. No variation modification or alteration of the terms hereof shall be binding upon either party unless set forth in an express and formal written amendment.
- (C) This Contract shall be construed in accordance with the laws of the State of Wisconsin.
- (D) For the purposes of this Agreement, (i) "Hazardous Materials" include, without limit, any flammable explosives, radioactive materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (49 U.S.C. 1801, *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6901, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. 2601, *et seq.*) and in the regulations adopted and publications promulgated pursuant thereto, as such laws or regulations not exist or may exist in the future, and (ii) "Other Conditions" include, without limit, methane and other gases, petroleum and any fraction thereof, nonhazardous wastes or materials, and any physical conditions or other subsurface conditions which arise out of or are in any way related to current or previous uses or activities on the Premises.

14. **Other Conditions:**

As additional consideration to the transaction, Donor and Donee agree as follows:

- a. Donor shall grant to Donee two (2) private pedestrian trail crossings, one located in the general vicinity of the west end of the railroad trestle and one located in the general vicinity of the east end of the railroad trestle described in Section 2b of the Real Estate Donation Contract, in the form of agreement marked Exhibit "H", attached hereto and made a part hereof. The exact location of the aforesaid private pedestrian recreational trail crossings shall be on the west end a 15' wide crossing immediately adjacent to the yellow area identified on Exhibit A. On the east end, a crossing that connects with an existing trail and identified as the yellow area on Exhibit A1.

b. Donee and Donor mutually agree to undertake all measures necessary for the closing of the Locust Street crossing in the city of Appleton, Outagamie County, identified as crossing number 179 919 F / NWF 213 78, by the Office of Commissioner of Railroads for the State of Wisconsin. The parties agree to jointly petition for the closure of said crossing with the Office of the Commissioner of Railroads (OCR) for the State of Wisconsin no later than July 1, 2017. Donor shall pay to Donee \$7,500 as matching funds for the City to close said crossing. Donee has identified a temporary plan for the closing, Exhibit _____ and a long-term closing plan, Exhibit _____. City agrees to have the long-term plan included in the City's 5-year project plan as part of the 2018 Budget.

c. Donee covenants and agrees to construct and maintain, at Donee's sole cost and expense, a six (6) foot high chain link fence, or other fencing agreeable to Donor, along the entire north boundary line and top deck of the railroad trestle described in Section 2b herein, as well as along the trackside (north) boundary line of the 0.3 acre parcel described in Section 2a herein, except for the location of the private pedestrian recreational trail crossing referenced in Section 14a herein. The construction of the fence shall be completed by Donee prior to any use of the Premises by the public for a recreational trail or any other public purpose.

The provisions of this Section 14 shall survive the closing.

d. Donor agrees that notwithstanding any other provision contained in this Agreement or any attachment to this Agreement, Donee shall be permitted to convert the trestle identified in Paragraph 2b above, to a pedestrian trail, at the sole expense of the Donee.

15. **Acceptance.** This Contract, and all attachments, when accepted and signed by the Donor, shall constitute the entire agreement between the parties and shall thereafter be binding upon and inure to the benefit of the Donor and the Donee, their heirs, administrators, successors and assigns. The execution and delivery of this Contract by Donee constitutes an offer to acquire the Premises on the terms described herein, which offer shall remain irrevocable and available for acceptance by Donor for a period of thirty (30) days after the date of Donee's signature below. **This contract shall not become binding upon Donor until executed by Donor and a duplicate original of this Contract is delivered to Donee.**
16. Any review by the Railroad of proposed improvements for the trail or crossing shall be completed within forty-five (45) days. Failure to comment within forty-five (45) days shall be deemed an approval.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates set forth below.

Donee: City of Appleton, Wisconsin

By: _____

Print Name:

Print Title:

Date of Donee's Offer: _____, 2017.

Donee's Address for notices:

City of Appleton
Department of Parks, Recreation and Facilities Management
1819 East Witzke Boulevard
Appleton, Wisconsin 54911
Fax No.: 920-832-5950

Donor: Wisconsin Central Ltd.

By: _____

Name: Arthur L. Spiros

Title: Senior Manager Business Development and
Real Estate – Southern Region

Accepted by Donor this _____ day of _____, 2017.

Donor's Address for notices:

Wisconsin Central Ltd.
Business Development and Real Estate Department
17641 S. Ashland Avenue
Homewood, Illinois 60430
Fax No.: 708-332-4348

J:\Attorney\WORD\Upw\Railroad Info\Donation Contract\RR - Donation Contract (Redlined 04-10-2017) - RR Changes.doc

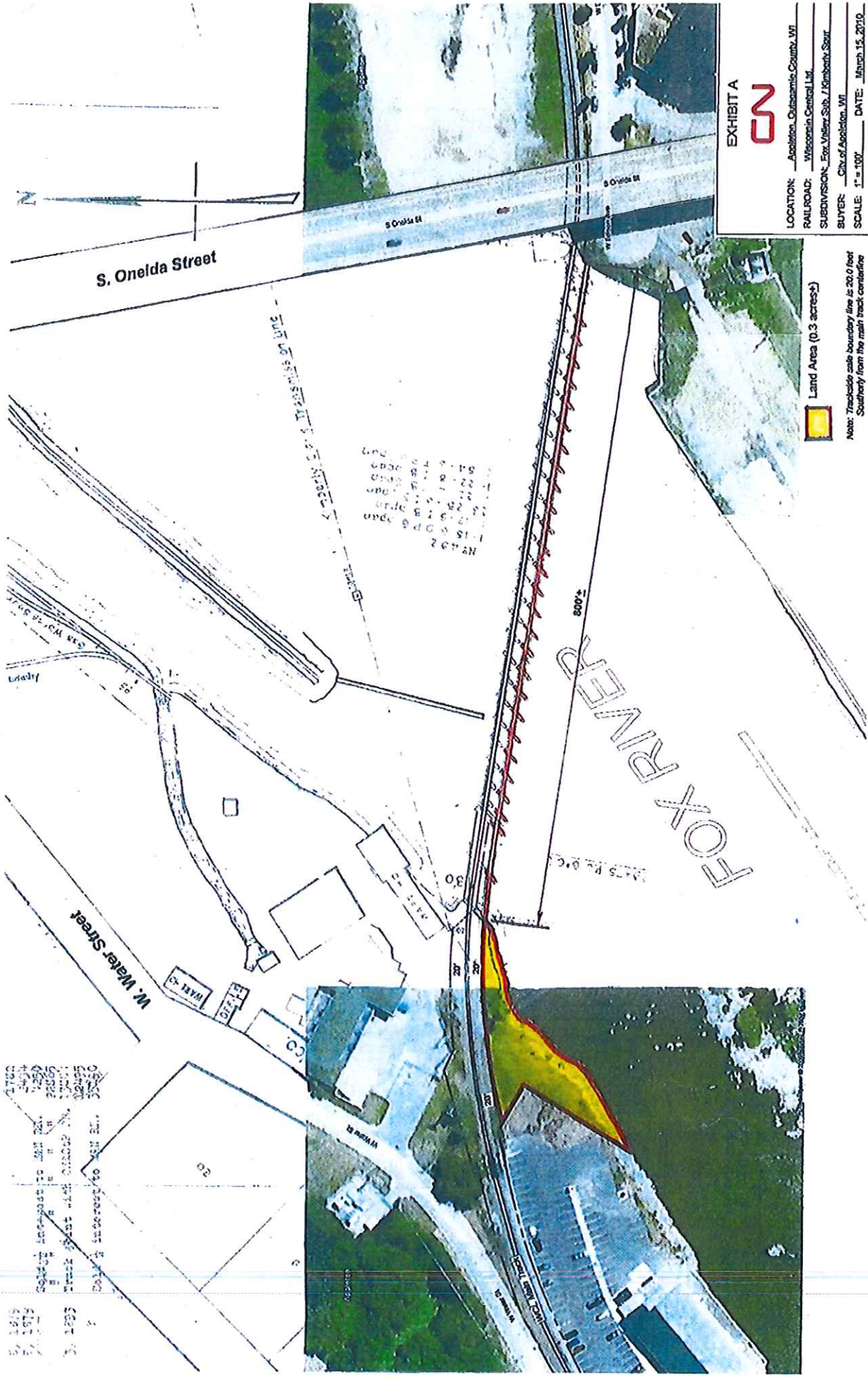


EXHIBIT A



LOCATION: Appleton, Outagamie County, WI
 RAILROAD: Wisconsin Central Ltd.
 SUBDIVISION: Fox Valley Sub. / Kimberly Spur
 BUYER: City of Appleton, WI
 SCALE: 1" = 100' DATE: March 15, 2010

Land Area (0.3 acres+)



Note: Trackside sale boundary line is 20.0 feet
 Southerly from the main track centerline

"WISCONSIN LAND TITLE SURVEY"
TROLLEY SQUARE
CITY OF APPLETON
OUTAGAMIE COUNTY, WISCONSIN

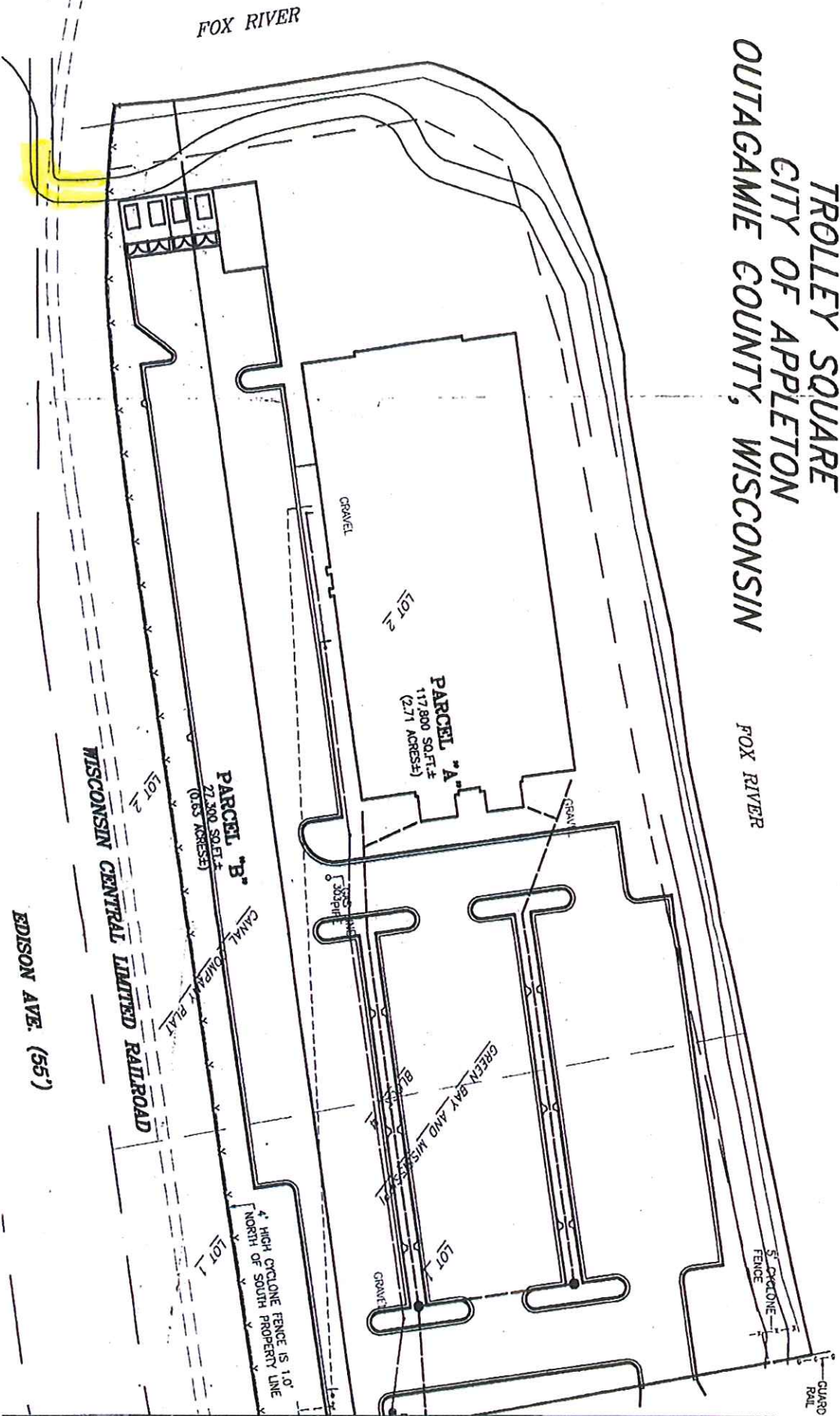




EXHIBIT "B"



EXHIBIT "D" / CHARITABLE CONTRIBUTION FORM 8283

Noncash Charitable Contributions

▶ Attach to your tax return if you claimed a total deduction of over \$500 for all contributed property.
▶ See separate instructions.

OMB No. 1545-0008

Attachment
Sequence No. **155**

Name(s) shown on your income tax return

Identifying number

Note. Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of \$5,000 or Less and Certain Publicly Traded Securities—List in this section only items (or groups of similar items) for which you claimed a deduction of \$5,000 or less. Also, list certain publicly traded securities even if the deduction is more than \$5,000 (see instructions).

Part I Information on Donated Property—If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) Description of donated property (For a donated vehicle, enter the year, make, model, condition, and mileage, and attach Form 1098-C if required.)
A		
B		
C		
D		
E		

Note. If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (d), (e), and (f).

	(c) Date of the contribution	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) Fair market value (see instructions)	(h) Method used to determine the fair market value
A						
B						
C						
D						
E						

Part II Partial Interests and Restricted Use Property—Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).

- 2a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ▶
If Part II applies to more than one property, attach a separate statement.
- b Total amount claimed as a deduction for the property listed in Part I: (1) For this tax year ▶
(2) For any prior tax years ▶
- c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above):
Name of charitable organization (donee)
Address (number, street, and room or suite no.)
City or town, state, and ZIP code
- d For tangible property, enter the place where the property is located or kept ▶
- e Name of any person, other than the donee organization, having actual possession of the property ▶

- 3a Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?
- b Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire?
- c Is there a restriction limiting the donated property for a particular use?

Yes	No

Name(s) shown on your income tax return

Identifying number

Section B. Donated Property Over \$5,000 (Except Certain Publicly Traded Securities)—List in this section only items (or groups of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions of certain publicly traded securities reported in Section A). An appraisal is generally required for property listed in Section B (see instructions).

Part I Information on Donated Property—To be completed by the taxpayer and/or the appraiser.

4 Check the box that describes the type of property donated:

- | | | |
|--|--|-------------------------------------|
| <input type="checkbox"/> Art* (contribution of \$20,000 or more) | <input type="checkbox"/> Qualified Conservation Contribution | <input type="checkbox"/> Equipment |
| <input type="checkbox"/> Art* (contribution of less than \$20,000) | <input type="checkbox"/> Other Real Estate | <input type="checkbox"/> Securities |
| <input type="checkbox"/> Collectibles** | <input type="checkbox"/> Intellectual Property | <input type="checkbox"/> Other |

*Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note. In certain cases, you must attach a qualified appraisal of the property. See instructions.

5 (a) Description of donated property (if you need more space, attach a separate statement)		(b) If tangible property was donated, give a brief summary of the overall physical condition of the property at the time of the gift		(c) Appraised fair market value	
A					
B					
C					
D					

(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received	See Instructions	
				(h) Amount claimed as a deduction	(i) Average trading price of securities
A					
B					
C					
D					

Part II Taxpayer (Donor) Statement—List each item included in Part I above that the appraisal identifies as having a value of \$500 or less. See instructions.

I declare that the following item(s) included in Part I above has to the best of my knowledge and belief an appraised value of not more than \$500 (per item). Enter identifying letter from Part I and describe the specific item. See instructions. ▶

Signature of taxpayer (donor) ▶

Date ▶

Part III Declaration of Appraiser

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I hold myself out to the public as an appraiser or perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). In addition, I understand that a substantial or gross valuation misstatement resulting from the appraisal of the value of the property that I know, or reasonably should know, would be used in connection with a return or claim for refund, may subject me to the penalty under section 6695A. I affirm that I have not been barred from presenting evidence or testimony by the Office of Professional Responsibility.

Sign

Here

Signature ▶

Title ▶

Date ▶

Business address (including room or suite no.)

Identifying number

City or town, state, and ZIP code

Part IV Donee Acknowledgment—To be completed by the charitable organization.

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ▶

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file Form 8282, Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? ▶ ☐ Yes ☐ No

Name of charitable organization (donee)

Employer identification number

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

Authorized signature

Title

Date



Printed on Recycled Paper

Form 8283 (Rev. 12-2006)

EXHIBIT "E"

CHARITABLE CONTRIBUTION RECEIPT

Substantiation for Charitable Donations of \$250 or More

Internal Revenue Code Section 1 70(f)(8) requires that the recipient (donee) of any single charitable gift of \$250 or more give the donor written confirmation of the receipt of such a gift, including a description and a good faith estimate of the value of any goods and services provided by the recipient (donee) in exchange for the donor making the gift.

In order to comply with this code section, _____ hereby certifies that we received the following contribution from

Cash or check in the amount of: \$ _____

Or

Property consisting of _____

Date contribution received: _____

Were any goods and/or services provided to _____ in return for this contribution?

Yes

No

If yes, a description of those goods and services is provided below with a statement of monetary value: _____

Value: \$ _____

Organization Name: _____

Address: _____

Telephone: _____ Fax: _____

Organization Tax ID#: _____

Signature: _____

Print Name and Title: _____

Date: _____

EXHIBIT "F"

BILL OF SALE

Wisconsin Central Ltd., a Delaware corporation, hereinafter referred to as **"Seller"**, for and in consideration of the sum of Ten and NO/100 Dollars (\$10.00), to it in hand paid by **City of Appleton**, a Wisconsin Municipal corporation, hereinafter referred to as **"Buyer"**, the receipt of which is herein acknowledged, grants, bargains, sells and delivers to the Buyer the following described property:

Seller's southernmost railroad trestle, and all appurtenances thereon, extending on, over and across the Fox River in Appleton, Wisconsin, as shown in red on the plat labeled Exhibit A, attached hereto and made a part hereof.

Seller hereby represents and warrants to Buyer that Seller is the absolute owner of said property that said property is free and clear of all liens, charges and encumbrances, and that Seller has full right, power and authority to sell said property and to make this Bill of Sale.

No representation or warranty is made by Seller to Buyer, either express or implied as to the condition of said property or its appurtenances or the fitness thereof for use or otherwise, all of which is sold "AS-IS, WHERE-IS".

Buyer represents that it has examined said property, is familiar with and accepts same in its present condition and assumes all risks incident thereto.

Seller shall not be liable for any incidental or consequential damages in connection with any representation or warranty.

As a consideration and as a condition, without which this Bill of Sale would not have been granted, Buyer agrees to indemnify Seller in accordance with the terms of "Exhibit B – Indemnity", attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said property unto the Buyer, its successors and assigns, to and for its own proper use and behoof forever.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed effective this ____ day of _____, 2016.

Seller: Wisconsin Central Ltd.

Buyer: City of Appleton, Wisconsin

By: _____

Name: Arthur L. Spiros

Title: Senior Manager Business Development
and Real Estate – Southern Region

By : _____

Name:

Title:

EXHIBIT "F"

Exhibit B – Indemnity

Buyer agrees to indemnify and save harmless Seller, its officers, employees and agents and to assume liability for death or injury to any persons, including, but not limited to, officers, employees, agents, patrons and licensees of the parties hereto, and for loss, damage or injury to any property, including, but not limited to, that belonging to the parties hereto, whether in defense of any such claims, demands, actions and causes of action or in the enforcement of the indemnification rights hereby conferred, in any manner or degree caused by, attributable to or resulting from the exercise of the rights herein granted, or the failure of the Buyer to conform to conditions of this Bill of Sale, work performed by Seller for the Buyer under the terms of this Bill of Sale, or the construction, maintenance, repair, renewal, alteration, change, relocation, existence, presence, use, operation or removal of any structure incident thereto, or from any activity conducted on or occurrence originating on the area covered by this agreement, except when caused by the sole negligence or willful misconduct of Seller, its officers, employees and agents. Said Buyer also agrees to release, indemnify and save harmless Seller, its officers, employees and agents from all liability to Buyer, its officers, employees, agents or patrons, resulting from railroad operations at the area in which the removal of trackage and appurtenances is to be exercised, except where the death, injury or damage resulting therefrom are caused by the sole negligence or willful misconduct of Seller, its officers, employees or agents. At the election of Seller, the Buyer, upon notice to that effect shall assume or join in the defense of any claim based upon allegations purporting to bring said claim within the coverage of this section.

EXHIBIT "G"

BILL OF SALE

Wisconsin Central Ltd., a Delaware corporation, hereinafter referred to a **"Seller"**, for and in consideration of the sum of Ten and NO/100 Dollars (\$10.00), to it in hand paid by **City of Appleton**, a Wisconsin Municipal corporation, hereinafter referred to as **"Buyer"**, the receipt of which is herein acknowledged, grants, bargains, sells and delivers to the Buyer, insofar as it lawfully may, Seller's interest, if any, in and to the following described property:

Add description of trestle

No representation or warranty is made by Seller to Buyer, either express or implied, as to i.) Seller's interest, if any, in said property; or ii.) the condition of said property or its appurtenances or the fitness thereof for use or otherwise, all of which is sold "AS-IS, WHERE-IS".

Buyer represents that it has examined said property, is familiar with and accepts same in its present condition and assumes all risks incident thereto.

Seller shall not be liable for any incidental or consequential damages in connection with any representation or warranty.

As a consideration and as a condition, without which this Bill of Sale would not have been granted, Buyer agrees to indemnify Seller in accordance with the terms of "Exhibit B – Indemnity", attached hereto and made a part hereof.

TO HAVE AND TO HOLD Seller's interest, if any, in said property unto the Buyer, its successors and assigns, to and for its own proper use and behoof forever.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed effective this ____ day of _____, 2016.

Seller: Wisconsin Central Ltd.

Buyer: City of Appleton, Wisconsin

By: _____

Name: Arthur L. Spiros

Title: Senior Manager Business Development
and Real Estate – Southern Region

By : _____

Name:

Title:

EXHIBIT "G"

Exhibit B – Indemnity

Buyer agrees to indemnify and save harmless Seller, its officers, employees and agents and to assume liability for death or injury to any persons, including, but not limited to, officers, employees, agents, patrons and licensees of the parties hereto, and for loss, damage or injury to any property, including, but not limited to, that belonging to the parties hereto, whether in defense of any such claims, demands, actions and causes of action or in the enforcement of the indemnification rights hereby conferred, in any manner or degree caused by, attributable to or resulting from the exercise of the rights herein granted, or the failure of the Buyer to conform to conditions of this Bill of Sale, work performed by Seller for the Buyer under the terms of this Bill of Sale, or the construction, maintenance, repair, renewal, alteration, change, relocation, existence, presence, use, operation or removal of any structure incident thereto, or from any activity conducted on or occurrence originating on the area covered by this agreement, except when caused by the sole negligence or willful misconduct of Seller, its officers, employees and agents. Said Buyer also agrees to release, indemnify and save harmless Seller, its officers, employees and agents from all liability to Buyer, its officers, employees, agents or patrons, resulting from railroad operations at the area in which the removal of trackage and appurtenances is to be exercised, except where the death, injury or damage resulting therefrom are caused by the sole negligence or willful misconduct of Seller, its officers, employees or agents. At the election of Seller, the Buyer, upon notice to that effect shall assume or join in the defense of any claim based upon allegations purporting to bring said claim within the coverage of this section.

EXHIBIT "H"

LEASE FOR A PRIVATE TRAIL CROSSING

This Lease for a Private Pedestrian Recreational Trail ("Agreement"), made and entered into as of the _____ day of _____, 2011, 7 by and between the WISCONSIN CENTRAL LTD. (hereinafter referred to as "Railroad Company") whose mailing address is 17641 S. Ashland Avenue, Homewood, Illinois 60430-1345 and _____ (City of Appleton (hereinafter referred to as "Lessee") whose mailing address is 100 North Appleton Street, Appleton, WI 54911-4799.

WITNESSETH:

IN CONSIDERATION of the mutual covenants and agreements herein set forth, Railroad Company, insofar as it lawfully may, does hereby grant unto Lessee a lease to construct, maintain and use a private pedestrian recreational trail upon, over and across the property or right-of-way of Railroad Company (including the track located thereon) at _____ as shown on the print attached hereto as Exhibit A and made a part hereof,

Lessee shall pay to Railroad Company upon execution of this Agreement the sum of **\$750.00** for preparation and handling of this Agreement. The aforesaid sum is not refundable in the event Lessee elects not to enter upon Railroad Company's property,

Lessee shall at all times conduct its work in accordance with any and all "Special Provisions" which may be appended hereto which, by reference hereto, are hereby made a part hereof.

UPON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. DEFINITIONS.

- (a) Railroad Company's Property. "Railroad Company's Property" shall mean the property shown on the attached print, to the extent owned by Railroad Company, whether owned in full ownership or as a servitude, easement, or right-of-way, including Railroad Company's track, the land on which the track is situated, and any adjacent land of Railroad Company on either side of the track.
- (b) Lessee. "Lessee" shall mean the City of Appleton.
- (c) Lease Area. "Lease Area" shall mean that portion of Railroad Company's Property over and across which the lease is granted. The Lease Area extends from one edge of the Railroad Company's Property across the track to the opposite edge of the Railroad

EXHIBIT "H"

Company's Property and measures a distance of approximately fifteen (15) feet in width on either side of the center line of the roadway, all as more fully shown on the attached print.

- (d) Trail. "Trail" shall mean the trail approaches on either side of the Crossing Proper within the Lease Area including that portion between tracks where multiple tracks exist.
- (e) Crossing Proper. "Crossing Proper" shall mean that portion of the Lease Area encompassing an area from end-of-tie to end-of-tie and from end-of-surface to end-of-surface, with a total surface width of approximately _____ feet.
- (f) Lessee's Property. "Lessee's Property" shall mean the property or estate of Lessee to and from which this Agreement provides ingress and egress for Lessee's benefit and use.
- (g) Cost. "Cost" shall mean the actual cost of labor, outside services, equipment and materials plus Railroad Company's then current customary additives for overhead and other indirect costs.

2. USE.

- (a) This Agreement shall only affect and burden the Lease Area and no other portion of Railroad Company's Property, and the Trail and Crossing Proper shall be constructed, located, and maintained entirely within the Lease Area. Lessee shall have no right to use or cross any other portion of Railroad Company's Property or to use the Trail and Crossing Proper for any purposes other than as expressly permitted herein, and Lessee, as a further consideration, cause, and condition without which this Agreement would not have been granted, agrees to restrict its and its employees', agents' and invitees' use to those purposes and then only to said location and no other for crossing the Railroad Company's Property, including the track.
- (b) Lessee shall not do or permit to be done any act which will in any manner interfere with, limit, restrict, obstruct, damage, interrupt, or endanger Railroad Company's operations or facilities.
- (c) Lessee shall require and shall take all reasonable steps necessary to ensure that all persons using the Trail and Crossing Proper, come to a complete stop, look carefully for approaching trains before crossing Railroad Company's tracks, and yield to any approaching train.
- (d) The Crossing Proper shall be used only by Lessee and its employees, agents, contractors, patrons and invitees and then only as a public pedestrian recreational trail crossing Railroad Company's property.
- (e) The Trail and Crossing Proper shall not be used by vehicles of a size, configuration or weight that would damage the tracks, equipment, installations, or facilities of Railroad Company or any equipment,

EXHIBIT "H"

installations, or facilities located on Railroad Company's Property but belonging to third persons unless approved in advance in writing by Railroad Company and then only after suitable precautions have been taken to avoid any such damage.

3. TERM.

- (a) This Agreement shall become effective as of the date first written above and shall continue in effect thereafter for a period of forty (40) years in one of the manners set forth below:
 - (i.) Either party may at any time give the other party written notice of termination specifying the date on which termination shall be effective, provided that such notice shall be delivered at least thirty (30) days in advance of the proposed date of termination.
 - (ii.) Railroad Company shall have the right to terminate this Agreement immediately upon written notice to Lessee if Lessee at any time breaches or fails to perform any of the terms and conditions hereof;
 - (iii.) This Agreement shall terminate through non- use or in any other manner provided by law.
- (b) This Agreement shall automatically renew for another term of forty (40) years unless terminated by one party upon written notice to the other given in writing at least one (1) year prior to expiration.
- (c) Unless the parties mutually agree in writing to leave the Trail and Crossing Proper in place after termination, the termination of this Agreement shall not be effective until all removal and restoration is complete. Termination of this Agreement shall not release Lessee from any liability or responsibility and duty which accrued prior to such termination, removal and restoration.

4. CONSTRUCTION.

The construction of the Trail, including the necessary grading, culverts and drainage on each side of the Railroad Company's track, shall be performed by Lessee at its own risk and expense, and to the satisfaction of the Railroad Company's authorized representative. Railroad Company will install the Trail over its track(s), from end-of-tie to end-of-tie, and make all adjustments required in Railroad Company facilities, if any, at Lessee's sole expense. For performance of its work as described in this paragraph Railroad Company will be paid by Lessee upon completion of said work. Railroad Company shall complete the work as described in this paragraph by

5. NOTIFICATION TO RAILROAD COMPANY.

EXHIBIT "H"

At least ten (10) days prior to entering upon the Trail for the purpose of performing any construction or maintenance work hereunder, Lesseeshall notify Railroad Company in writing of the type of work to be performed and the date such work will commence. The notice shall be sent to the following address:

Regional Chief Engineer
Wisconsin Central Ltd.
17641 South Ashland Avenue
Homewood, IL 60430

6. SIGHTING AT CROSSING.

Lessee shall arrange to keep each quadrant of the intersection of the Roadway with Railroad Company's track free of bushes, trees, weeds, vegetation, and all other obstructions of any kind that could interfere with a motor vehicle operator sighting an approaching train. If Lesseerequires access to Railroad Company's property outside the Roadway to satisfy this requirement, Lesseeshall obtain written permission from Railroad Company's authorized representative.

7. RAISING WIRE LINES.

If it should be necessary to raise any wires on Railroad Company's property to provide safe clearance for vehicles, Lessee shall make all arrangements therefor at its own sole risk and expense.

8. MAINTENANCE.

Lessee shall, at its own risk and expense, maintain said Trail in good and safe condition commensurate with its intended use. Railroad Company shall, at the sole risk and expense of Lessee, maintain the Crossing Proper, however, Railroad Company shall have the right, but not the duty, to perform at Lessee's sole risk and expense, any repair or maintenance on the Trail that Railroad Company considers reasonably necessary and Lessee shall pay the cost thereof upon receipt of a bill whether made at Lessee's request or otherwise.

9. CROSSING TO BE KEPT FREE OF DEBRIS.

Lessee shall at all times during the term of this Agreement, keep the Railroad Company's track and flangeway free of dirt, rocks or other debris or obstructions (including obstructions to proper drainage) of any kind, and will not permit any condition which might interfere with the safe and efficient operation of trains over the Crossing Proper, or which might damage equipment or facilities belonging to Railroad Company or others, or which might constitute a safety hazard of any kind. If at any time Lessee shall fail to do so, Railroad Company

EXHIBIT "H"

may, at its option, remove any dirt, rocks, debris or obstructions, and Lessee will pay Railroad Company the cost thereof promptly upon receipt of bill therefor. If the continued or repeated presence of dirt, rocks, debris or obstructions should, in the opinion of Railroad Company, create an operating hazard, Railroad Company may provide protective services at Lessee's expense until such condition is corrected in a manner reasonably satisfactory to Railroad Company, or at its option may immediately terminate this Agreement.

10. UNAUTHORIZED USE.

Lessee shall take reasonable steps to prevent all unauthorized uses of the Lease Area and nothing herein shall be construed to relieve Lessee of this responsibility.

11. GATES AND FLAGGING.

Lessee shall, at its own risk and expense, install and maintain any gate or other barrier which Railroad Company indicates is reasonably necessary and shall keep the gates closed when the Lease Area is not in actual use. Lessee shall, at its own risk and expense, provide whatever protective services Railroad Company shall indicate is necessary. Railroad Company shall have the right, but not the duty, to provide any such protection at Lessee's sole risk and expense and Lessee shall prepay the cost thereof. It is further understood and acknowledged by Lessee that Railroad Company has no obligation or duty to determine the need for any gate or other barrier or the need for protective services.

12. SIGNS, SIGNALS AND WARNING DEVICES.

Railroad Company, at Lessee's sole cost and expense, shall provide, install and thereafter maintain required signs not less than one (1) "PRIVATE CROSSING" sign and post, not less than one ENS sign and two (2) flanger signs and posts (if necessary). It is the Lessee's responsibility to notify Railroad Company of missing or damaged signs and those needing refurbishing.

Lessee acknowledges that Railroad Company has no obligation or duty to give audible warning of the approach of a train, nor erect whistle posts, nor reduce the speed of its trains, nor alter its operations in any manner, owing to the presence or existence of the trail and crossing proper or other use or exercise of the right or lease granted herein. Lessee assumes, at its own risk and expense, sole responsibility for determining if any additional signs, signals or other warning devices are necessary or appropriate for the safety of persons using the Lease Area and specifically acknowledges that Railroad Company has no obligation or duty whatever to make any such determination. If the installation of any signs, signals or warning devices on the Lease Area is presently or hereafter required by Railroad Company, law or by competent public authority, or is otherwise

EXHIBIT "H"

requested by Lessee, same shall conform to any then currently applicable practices of the Railroad Company for such devices as to design, material and workmanship and all costs incurred by the Railroad Company related to the installation, operation, maintenance, renewal, alteration and upgrading thereof shall be solely borne by Lessee.

13. INDEMNITY.

AS A FURTHER CONSIDERATION FOR THE LEASE HEREIN GRANTED, AND AS A CONDITION WITHOUT WHICH THE LEASE WOULD NOT HAVE BEEN GRANTED, LESSEE AGREES TO THE FULLEST EXTENT ALLOWED BY LAW, UNLESS CAUSED BY THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT BY OR ON THE PART OF RAILROAD COMPANY OR ITS OFFICERS, EMPLOYEES OR AGENTS, FULLY TO DEFEND, INDEMNIFY AND SAVE HARMLESS RAILROAD COMPANY AND ITS OFFICERS, EMPLOYEES AND AGENTS, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION, AND TO ASSUME ALL RISK, RESPONSIBILITY AND LIABILITY (INCLUDING ALL LIABILITY FOR EXPENSES, ATTORNEY'S FEES AND COSTS INCURRED OR SUSTAINED BY RAILROAD COMPANY, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED),

- (A) FOR DEATH OF OR INJURY TO ANY AND ALL PERSONS, INCLUDING BUT NOT LIMITED TO THE OFFICERS, EMPLOYEES, AGENTS, PATRONS, INVITEES AND LESSEES OF THE PARTIES HERETO, AND FOR ANY AND ALL LOSS, DAMAGE OR INJURY TO ANY PROPERTY WHATSOEVER, INCLUDING BUT NOT LIMITED TO THAT BELONGING TO OR IN THE CUSTODY AND CONTROL OF THE PARTIES HERETO, IN WHOLE OR IN PART ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO OR RESULTING FROM THE GRANT OR EXERCISE OF THIS LEASE, THE FAILURE OF LESSEE TO CONFORM TO THE CONDITIONS OF THIS AGREEMENT, WORK PERFORMED BY RAILROAD COMPANY FOR LESSEE UNDER THE TERMS OF THIS AGREEMENT, WORK PERFORMED BY LESSEE UNDER THE TERMS OF THIS AGREEMENT, OR FROM THE CONSTRUCTION, INSTALLATION, MAINTENANCE, REPAIR, RENEWAL, ALTERATION, CHANGE, RELOCATION, EXISTENCE, PRESENCE, USE, OPERATION OR REMOVAL OF ANY STRUCTURE INCIDENT THERETO, AND
- (B) FOR DEATH OF OR INJURY TO THE OFFICERS, EMPLOYEES, AGENTS, PATRONS, INVITEES AND LESSEES OF LESSEE AND FOR ANY AND ALL LOSS, DAMAGE OR INJURY TO THEIR PROPERTY, AND TO ANY PROPERTY BELONGING TO OR IN THE

EXHIBIT "H"

CARE, CUSTODY OR CONTROL OF LESSEE, IN WHOLE OR IN PART ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO OR RESULTING FROM THE CONDUCT OF ANY RAILROAD OPERATIONS AT OR NEAR THE AREA IN WHICH THE HEREIN CONFERRED LEASE IS GRANTED OR EXERCISED.

IT IS THE INTENTION OF THE PARTIES HERETO THAT LESSEE SHALL BY SOLELY RESPONSIBLE FOR ALL SUCH DESTRUCTION OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY TO OR DEATH OF ANY PERSONS WHICH WOULD NOT HAVE OCCURRED IF SUCH PRIVATE ROAD CROSSING HAD NEVER BEEN CONSTRUCTED OR USED.

LESSEE SHALL AT ITS SOLE EXPENSE JOIN IN OR ASSUME, AT THE ELECTION AND ON DEMAND OF RAILROAD COMPANY, THE DEFENSE OF ANY CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION HEREUNDER ARISING. THE WORD "RAILROAD COMPANY" AS USED IN THIS SECTION SHALL INCLUDE THE ASSIGNS OF RAILROAD COMPANY AND ANY OTHER RAILROAD COMPANY THAT MAY BE OPERATING UPON AND OVER THE TRACKS CROSSING THE LEASE AREA.

14. INSURANCE.

Lessee shall procure and maintain during the life of this Agreement COMMERCIAL GENERAL LIABILITY INSURANCE which will insure the indemnity undertaking hereinabove set forth. Such insurance shall have a minimum combined single limit of \$5,000,000 per occurrence with an aggregate limit of \$10,000,000 per annual policy period and said insurance shall be deemed primary as it relates to this Agreement. Lessee shall furnish the Railroad Company at the address shown below in this Section with a certificate evidencing that such insurance is in full force and effect and that the same will not be cancelled, terminated, or not renewed without at least thirty (30) days advance written notice by the insurance carrier to the Railroad Company. Such insurance shall include a complete waiver of subrogation by the insurer, a removal of any railroad exclusion through issuance of endorsement CG 24 17, and inclusion of the Railroad Company as an additional insured. In addition to other information, the certificate shall contain the following language:

Notwithstanding anything contained therein to the contrary, the Commercial Liability Insurance hereinabove referred to is extended to specifically insure the indemnity obligations assumed by _____ under Section 13 of an Agreement dated _____ with Wisconsin Central Ltd. covering use of Railroad Company's Property for a private road crossing. Insurer shall not cancel, terminate, or allow to lapse by reason of nonrenewal the policy without providing

EXHIBIT "H"

Wisconsin Central Ltd. at least thirty (30) days' advance written notice, said notice to be sent via certified mail to:

Regional Chief Engineer
Wisconsin Central Ltd.
17641 Ashland Avenue
Homewood, Illinois 60430-1345

15. REMOVAL OF TRAIL AND CROSSING PROPER.

Prior to termination of this Agreement, Lessee shall remove its Trail from Railroad Company's Property (except for the Crossing Proper located between the ends of ties) and restore the Railroad Company's Property, as near as may be, to its former condition insofar as such restoration may in the opinion of Railroad Company's duly authorized representative be practical, all at Lessee's sole risk and expense. If Lessee fails to so remove and restore, Railroad Company shall have the right, but not the obligation, to do so at Lessee's sole risk and expense. Upon termination, Railroad Company shall have the right, but not the duty, to remove the Trail and Crossing Proper and to restore the Railroad Company's Property, all at Lessee's sole risk and expense. Lessee shall pay the cost of any work performed by Railroad Company upon presentation of a bill. Railroad Company shall have the right to require Lessee to deposit the estimated cost of any or all removal or restoration work involving the Trail and/or Crossing Proper or to furnish an acceptable performance bond in such amount prior to work being performed.

16. ASSIGNMENT.

Lessee shall not have the right to assign this Agreement without first obtaining the consent in writing of the Railroad Company, which consent will not be unreasonably withheld.

17. TAXES.

The Lessee shall pay all taxes, general and special, lease fees or other charges which may become due or which may be assessed against the premises of the Railroad Company for this site because of the construction, existence, operation or use of said Trail and Crossing Proper, or the business conducted in connection with said facility, and shall reimburse the Railroad Company for any such taxes, lease fees or other charges which may be paid by the Railroad Company upon the presentation of bills therefor.

EXHIBIT "H"

18. NON-CONVERSION TO PUBLIC USE

So long as this Lease remains in effect, Licensee-Lessee agrees to take no action of any kind whatsoever or to allow any third person to take any action which would result in the conversion of this License-Lease Area from a private road crossing to a public road crossing over Railroad Company's Property. In the event of a breach of this condition by the LicenseeLessee, the Licensee Lessee shall be liable for all damages incurred by the Railroad Company as a result of such breach.

19. BILLS.

All bills submitted by the Railroad Company to Lessee pursuant to the terms of this Agreement shall be paid by Lessee within thirty (30) days of receipt thereof.

20. ENFORCEABILITY.

In the event that any parts, sections or other portions of this Agreement are found unenforceable under the applicable law of any courts having jurisdiction over this Agreement, the remaining parts, sections or other portions thereof and the enforcement of same shall not be affected and shall otherwise remain in full effect and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date first above written.

WISCONSIN CENTRAL LTD.

By _____
Tom Bourgonje
Regional Chief Engineer Regional Chief

By _____

Title: _____

EXHIBIT "H"

SPECIAL PROVISIONS

RELATIVE TO FLAGGING AND OTHER PROTECTION OF RAILROAD COMPANY TRAFFIC AND FACILITIES DURING CONSTRUCTION ADJACENT AND ABOVE, ON OR ACROSS, THE PROPERTY OF, OR ON, ABOVE AND BENEATH THE TRACKS OF THE WISCONSIN CENTRAL LTD.

The Lessee shall, before entering upon the property of Railroad Company for performance of any work, secure a fully executed right of entry lease from Railroad Company's Engineering Manager or their authorized representative for the occupancy and use of Railroad Company's property. Lessee shall confer with Railroad Company relative to requirements for railroad clearances, operation and general safety regulations.

Prior to any entry onto Railroad Company's property, employees and/or contractor(s) of Lessee doing work shall determine by the guidelines hereinafter provided and by the work to be performed the level of safety training to be required.

All employees and/or contractor(s) of Lessee not hired by Railroad Company that will work on CN property are required to have minimum www.eRailsafe.com

- a. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.

All employees and/or contractor(s) of Lessee hired by Railroad Company which will work on Railroad Company property are required to have minimum CN Safety and Security Awareness training, in addition to undergoing a background check. This training and background check must be obtained through the eRailSafe.com website. If not done before, the contractor must contact CN Special Agent James Conroy at 708-332-5947 or James.Conroy@cn.ca to be issued a vendor number prior to accessing the noted website. Minimum information required of the Lessee and/or their contractor when contacting either Special Agent James Conroy or e-RailSafe is Name, Address, Telephone, Contact Person for State Projects, DOT Contract Number, and the AAR/DOT Number. This training is good for a period of two years.

- a. EXCEPTION: Railroad Company has exempted those employees of contractors providing paving services at a road crossing under construction or repair from this requirement.
- b. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.

All employees and/or contractor(s) of Lessee hired by Railroad Company, whose duties include and who are engaged in the inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, roadway facilities, or roadway machinery that will work foul of or have the potential to foul a live track are considered Roadway Workers under FRA regulations and CN Policy. They must complete the On-Track Safety

EXHIBIT "H"

Training course approved by Railroad Company and provided by R.R. Safety – AMR, P.O. Box 75, Lomira, WI 53048, telephone (920) 517-1677, email rrsafetytraining@yahoo.com. This training must be repeated at least once each calendar year.

- a. EXCEPTION: Railroad Company has exempted those employees of contractors providing paving services at a road crossing under construction or repair from this requirement.
- b. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.
- c. All the employees and/or contractor(s) of Lessee who will operate on-track machinery or those who will provide protection for other employees and/or contractor(s) of Lessee must also be trained on CN US Operating Rules pertaining to their duties. They must take and pass the required examination. This training is good for a period of two years.
- d. "Potential to foul a live track" is considered, at a minimum, to be working within twenty-five feet of the track; or as otherwise to be determined by CN Design & Construction Department.

The employees, contractor(s), and/or agents of the Lessee and/or its contractor shall qualify for, and make available for inspection to Railroad Company's employees or other authorized personnel at all times while on Railroad Company property, a photo identification issued by www.e-railsafe.com, along with at least one other government-issued form of identification. Lessee and/or their contractor shall bear all costs of compliance with the requirements of this Section. Railroad Company reserves the right to bar any of employees or agents of Lessee and/or their contractor from Railroad Company's property at any time for any reason.

Lessee and/or any contractor engaged on their behalf, shall at all times conduct work in a manner satisfactory to the Engineering Manager of Railroad Company, or their authorized representative, and shall exercise care so as to not damage the property of Railroad Company, or that belonging to any other grantees, Lessees, permittees or tenants of Railroad Company, or to interfere with railroad operations.

Engineering Manager of Railroad Company, or their authorized representative, will at all times have jurisdiction over the safety of railroad operations. The decision of the Engineering Manager or their authorized representative as to procedures which may affect the safety of railroad operations shall be final, and Lessee and/or their contractor shall be governed by such decision.

All work shall be conducted in such a manner as will assure the safety of Railroad Company. Railroad Company's authorized representative shall have the right, but not the duty, to require certain procedures to be used or to supervise the work on Railroad Company's property.

Should any damage occur to Railroad Company property as a result of the authorized or unauthorized operations of Lessee and/or their contractor and Railroad Company deems it necessary to repair such damage or perform any work for the protection of its property or operations, the Lessee and/or their contractor, as the case may be, shall promptly reimburse Railroad Company for the actual cost of such repairs or work. For the purpose of these Special Provisions, actual cost shall be deemed to include the direct cost of any labor, materials,

EXHIBIT "H"

equipment, or contract expense plus Railroad Company's current standard additives in each instance.

All work shall be conducted in such a manner as will assure the safety of Railroad Company. Railroad Company's authorized representative shall have the right, but not the duty, to require certain procedures to be used or to supervise the work on Railroad Company's property. Any accidents / incidents occurring on Railroad Company property, that result in or had the potential of causing serious injury, lost work days, vehicle or property damage must be reported to the Railroad Company representative within 24 hours. All such incidents will be fully investigated by the Lessee and/or their contractor. The Lessee shall subsequently provide a written report to Engineering Manager of Railroad Company, or their authorized representative, within seven (7) days detailing the nature of the incident, the cause(s), regulatory authorities notified, and a specific action plan to prevent recurrence.

Lessee shall promptly notify Railroad Company of any releases of fuel or other equipment fluids from Lessee's activities hereunder that exceed five (5) gallons in volume. Releases of fuel or fluids amounting to five (5) gallons or less shall be documented by Lessee and reported to Railroad Company on a monthly basis. Lessee shall be solely responsible for reporting a) releases of hazardous substances, materials and wastes from Lessee's activities hereunder in excess of the reportable quantity, and b) releases of petroleum products from Lessee's activities hereunder causing a sheen on any water of the United States, to the appropriate governmental authorities and the Railroad Company.

If the work requires the construction of a temporary grade crossing across the track(s) of Railroad Company, Lessee and/or their contractor shall make the necessary arrangements and execute Railroad Company's temporary grade crossing agreement for the construction, protection, maintenance, and later removal of such temporary grade crossing. The cost of such temporary grade crossing construction and later removal shall be reimbursed to Railroad Company within thirty (30) days. Additional costs for repairs, maintenance or protection will be paid within thirty (30) days upon receipt of bill(s) therefor.

Lessee and/or their contractor shall at no time cross Railroad Company's property or tracks with vehicles or equipment of any kind or character, except at such temporary grade crossing as may be constructed as outlined herein, or at any existing and open public grade crossing. Operation over such crossing shall be at the direction and method of Railroad Company's Engineering Manager or their authorized representative.

Railroad Company may, at Lessee's and/or their contractor's sole cost, risk and expense, furnish whatever protective services it considers necessary, including, but not limited to, flagger(s), inspector(s), and stand-by personnel. Flagging protection, inspection services, or standby personnel required by Railroad Company for the safety of railroad operations because of work being conducted by Lessee and/or their contractor, or in connection therewith, will be provided by Railroad Company and the cost of Lessee and shall be reimbursed to Railroad Company by Lessee and/or their contractor within thirty (30) days. Flagging protection, inspection services, or standby personnel, necessary or provided in excess of prepayment amounts will be billed at the proper rates and will be promptly paid by overnight delivery.

In the event Railroad Company is unable to furnish protective services at the desired time or on the desired date(s), or if Lessee's prepayment for such services is exhausted and not replenished by Lessee and/or their contractor, Lessee and/or their contractor shall not perform any work on Railroad Company's property until such time and date(s) that appropriate Railroad Company services can be made available and/or appropriate prepayment is received. It is

EXHIBIT "H"

understood that Railroad Company shall not be liable for any delay or increased costs incurred by Lessee and/or their contractor owing to Railroad Company's inability or failure to have appropriate protective services available at the time or on the date requested.

Lessee and/or their contractor shall request and secure flagging protection by written notice to Railroad Company using CN's "Request for Flagging Services" form. This form must be submitted at least ten (10) working days in advance of proposed performance of any work or access to Railroad Company's property.

Flagging protection will be required during any operation involving direct and potential interference with Railroad Company's tracks or traffic. This may include but is not limited to fouling of railroad operating clearances, reasonable proximity of accidental hazard to railroad traffic, work within twenty-five (25) feet horizontally of the nearest centerline of any railroad track, any work over any railroad track, or in any other condition that Railroad Company deems protective services necessary, which may include work on or off Railroad Company's property more than twenty-five (25) feet from the nearest centerline of any railroad track, such as any equipment extension (including but not limited to a crane boom) that will reach or has the potential to reach within twenty-five (25) feet of any track.

Lessee and/or their contractor shall request, prepay, and secure Railroad Company signal facility locates by written notice to Railroad Company along with submission of CN's "Request for Flagging Services" form at least ten (10) working days in advance of proposed performance of any work or access to Railroad Company property. Notice to Railroad Company does not fulfill or satisfy any other notification requirements for utility locates for non-railroad facilities.

Railroad Company may require that prior to digging, trenching, or boring activities on or near Railroad Company property, or beneath any railroad track, an on-site meeting be conducted with Railroad Company's Signal Department representative. No digging, trenching or boring activities shall be conducted in the proximity of any known buried Railroad Company signal cables without Railroad Company's Signal Department representative being present.

The rate of pay for Railroad Company employees will be the prevailing hourly rate for not less than eight (8) hours for the class of labor at regular rates during regularly assigned work hours, and at overtime rates outside of regular hours and in accordance with Labor Agreements or Schedules plus Railroad Company's current standard additives in each instance.

Wage rates are subject to change, at any time, by law or agreement between Railroad Company and employees, and may be retroactive because of negotiations or a ruling by an authorized Governmental Agent. If the wage rates are changed, Lessee and/or their contractor shall pay on the basis of the new rates and/or additives.

No digging, trenching, or boring on Railroad Company property shall be conducted without Railroad Company's written approval of the plans that were furnished to Railroad Company's Engineering Manager at least thirty (30) in advance of the excavation.

The following temporary clearances are the minimum that must be maintained at all times during any operation on or adjacent to Railroad Company property:

- | | |
|-------------|---|
| Vertical: | 22'-0" (7.00 m) above top of highest rail within 12'-0" (3.81 m) of the centerline of any track |
| Horizontal: | 12'-0" (3.81 m) from centerline of the nearest track, measured at right angles thereto |

EXHIBIT "H"

If lesser clearances than the above are required for any part of the work, Lessee and/or their contractor shall secure written authorization from Railroad Company's Engineering Manager for such lesser clearances in advance of the start of that portion of the work.

No materials, supplies, or equipment will be stored within twenty-five (25) feet from the centerline of any railroad track, measured at right angles thereto.

Lessee and/or their contractor will be required upon the completion of the work to remove from within the limits of Railroad Company's property all machinery, equipment, surplus materials, false work, rubbish or temporary buildings, and to leave said property in a condition satisfactory to the Engineering Manager of Railroad Company or their authorized representative.

Nothing in these Special Provisions shall be construed to place any responsibility on Railroad Company for the quality or conduct of the work performed by Lessee and/or their contractor hereunder. Any approval given or supervision exercised by Railroad Company hereunder, or failure of Railroad Company to object to any work done, material used, or method of operation shall not be construed to relieve Lessee and/or their contractor of any obligations pursuant hereto or under the Lease these Special Provisions are appended to.

Accepted: _____

Print Name: _____

Exhibit I

RAILROAD DESCRIPTION FROM EAST LINE OF LAWE STREET TO EAST TOP BANK OF 1ST WARD CANAL

THE FOLLOWING DESCRIPTION IS INTENDED TO DESCRIBE ALL THAT LAND, PROPERTY OR RIGHTS GRANTED TO THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY (SHOWN IN DETAIL ON RAILROAD MAP V-13/ S-10E, AS TRK. NO. 317-5609-ASH-DIV.) AND BEING DESCRIBED BY COMMENCING FROM THE EAST LINE OF LAWE STREET, AS LOCATED DECEMBER 6, 2016, NEAR THE SOUTHERLY SHORE OF THE FOX RIVER THENCE EASTERLY OVER THE FOX RIVER TO THE NORTHERLY SHORE OF THE FOX RIVER AND THENCE CONTINUE EASTERLY ALONG SAID NORTHERLY SHORELINE TO THE EASTERLY TOP OF BANK OF THE 1ST WARD CANAL, ALL LOCATED IN AND BEING A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF FRACTIONAL SECTION 35 AND THE NORTHWEST QUARTER (NW ¼) OF THE (NW ¼) OF FRACTIONAL SECTION 36, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN AND BEING MORE FULLY DESCRIBED IN AND PARTIALLY CONTAINED WITHIN THE FOLLOWING DESCRIBED DOCUMENTS:

A PART OF LOT 3, BLOCK E, LAWSBURGH PLAT IN FIRST WARD OF THE CITY OF APPLETON, ACCORDING TO JOHN STEPHENS MAP OF 1872 AND BEING LOCATED IN THE NW ¼ OF THE NW ¼ OF FRACTIONAL SECTION 36, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, BEING ALL THOSE LANDS IN AND MORE FULLY DESCRIBED IN A WARRANTY DEED RECORDED IN VOLUME 39 OF DEEDS ON PAGE 436 AS DOCUMENT NO.56579 AND RECORDED ON APRIL 12TH, 1881 IN THE OUTAGAMIE COUNTY REGISTER OF DEEDS OFFICE

AND

A PART OF LOT 3, BLOCK E, LAWSBURGH PLAT IN FIRST WARD OF THE CITY OF APPLETON, ACCORDING TO JOHN STEPHENS MAP OF 1872 AND BEING LOCATED IN THE NW ¼ OF THE NW ¼ OF FRACTIONAL SECTION 36, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, BEING ALL THOSE LANDS IN AND MORE FULLY DESCRIBED IN A WARRANTY DEED RECORDED IN VOLUME 49 OF DEEDS ON PAGE 287-288 AS DOCUMENT NO.50716 AND RECORDED ON AUGUST 7TH, 1879 IN THE OUTAGAMIE COUNTY REGISTER OF DEEDS OFFICE

AND

A STRIP OF LAND AND/OR WATER 50 FEET IN WIDTH AND BEING A PART OF LOT 1, BLOCK E, LAWSBURGH PLAT IN FIRST WARD OF THE CITY OF APPLETON, ACCORDING TO JOHN STEPHENS MAP OF 1872 AND ALSO ALL LANDS UNDER WATER ADJACENT TO SAID LOT AND BEING LOCATED IN THE NW ¼ OF THE NW ¼ OF FRACTIONAL SECTION 36, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, BEING ALL OF THOSE LANDS IN AND MORE FULLY DESCRIBED IN A DEED RECORDED IN VOLUME 46 OF DEEDS ON PAGE 615 AS DOCUMENT NO.51521 AND RECORDED ON NOVEMBER 5TH, 1879 IN THE OUTAGAMIE COUNTY REGISTER OF DEEDS OFFICE

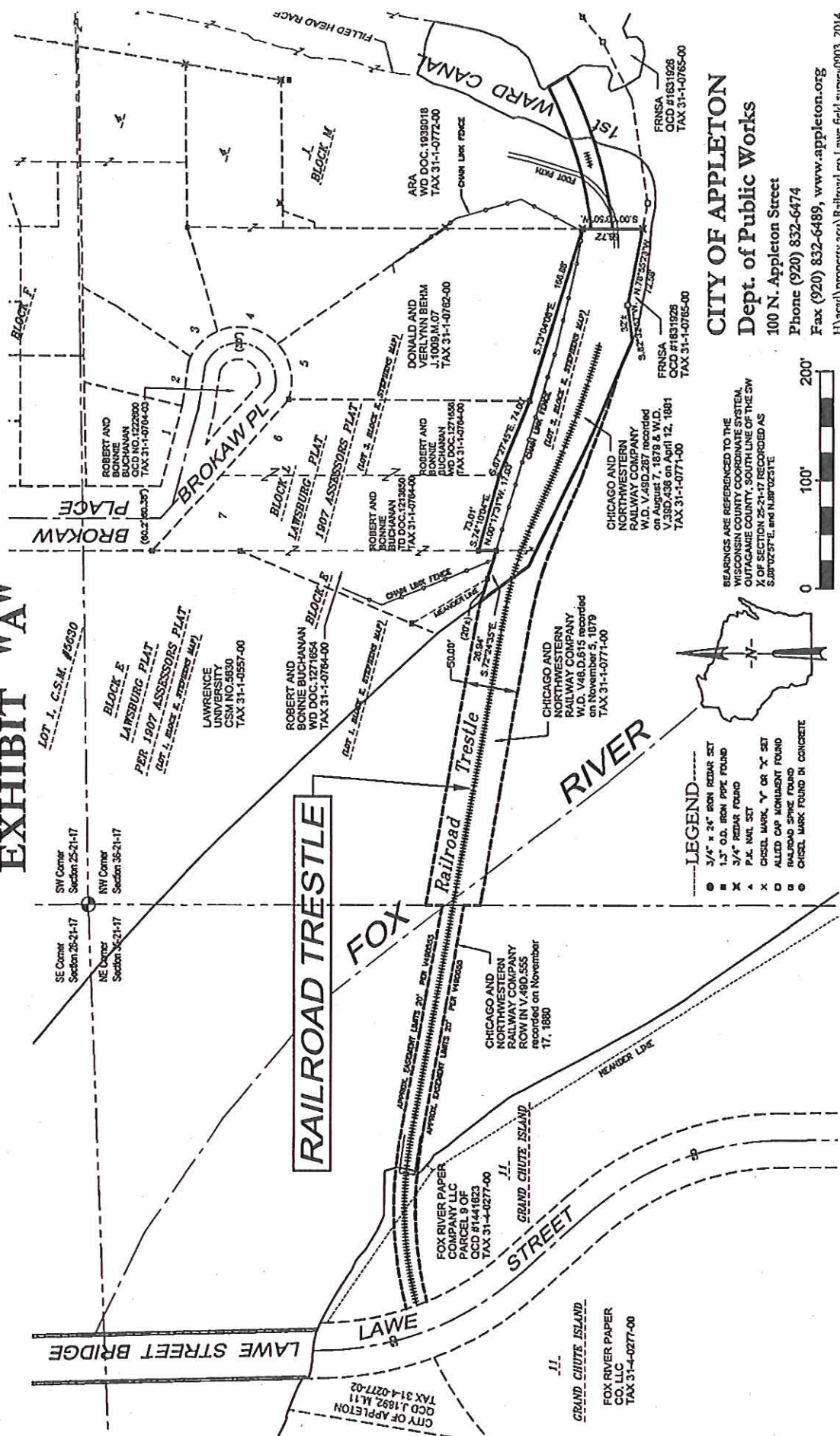
AND

A PORTION OF THOSE LANDS DESCRIBED IN A GRANT OF RIGHT OF WAY DOCUMENT RECORDED IN VOLUME 49 OF DEEDS ON PAGE 555-558 AS DOCUMENT NO.55201 AND RECORDED ON NOVEMBER 17TH, 1880 IN THE OUTAGAMIE COUNTY REGISTER OF DEEDS OFFICE AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND AND/OR WATER APPROXIMATELY 20 FEET IN WIDTH AND THE CENTERLINE OF WHICH IS DESCRIBED BY: COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF AN EXISTING RAILROAD TRACK OVER THE FOX RIVER WITH THE EAST LINE OF THE NE ¼ OF FRACTIONAL SECTION 35, TOWNSHIP 21 NORTH, RANGE 17 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN AND BEING THE POINT OF BEGINNING;

THENCE NORTHWESTERLY, WESTERLY AND SOUTHWESTERLY 375 FEET M/L ALONG THE CENTERLINE OF SAID RAILROAD TRACKS AND THE EXTENSION THEREOF TO THE EASTERLY LINE OF LAWE STREET AND THE TERMINUS OF SAID 20 FOOT M/L WIDE STRIP. THE SIDELINES OF SAID 20 FOOT M/L WIDE STRIP SHALL BE LENGTHENED OR SHORTENED TO MEET THE EASTERLY LINE OF LAWE STREET AND THE EASTERLY LINE OF SAID FRACTIONAL SECTION 35.

SEE ALSO ATTACHED EXHIBIT "A".



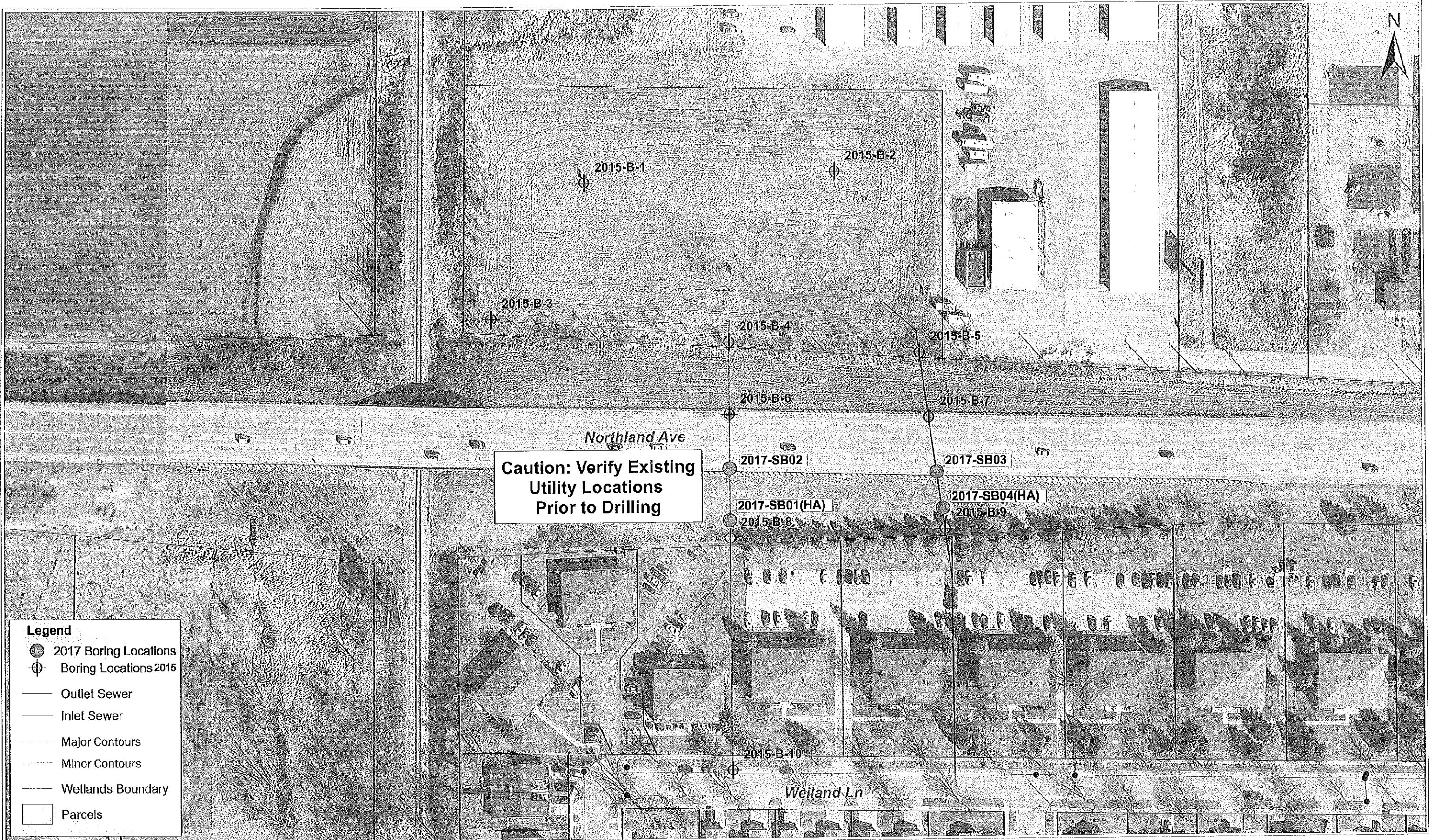
CITY OF APPLETON
Dept. of Public Works
100 N. Appleton Street
Phone (920) 832-6474
Fax (920) 832-6489, www.appleton.org
H:\acwd\property\acwl\Railroad co Laws field survey

Northland Avenue Stormwater Pond Proposed Contract Amendment
DPW Contract #3-17, Unit H-17
4/25/2017

Current Contract Amount	\$2,594,224.20
Current Contengency	\$130,000.00
Total Contract Plus Contingency	\$2,724,224.20
Proposed Change Order (Micro-Tunnel)	\$658,945.00
Amended Contract Amount	\$3,253,169.20
Existing Contingency	\$130,000.00
Proposed Contract Plus Contingency	\$3,383,169.20
H-17 Contract Budget	\$3,580,320.00

72" Trenchless Storm Sewer		
	original bid	\$263,000
	add per Contractor	\$470,910
	Total	\$733,910
42" (48") Trenchless Storm Sewer		
	original bid	\$245,000
	add per Contractor	\$188,035
	Total	\$433,035

72" Trenchless Storm Sewer (279 LF)		
Original bid price per lineal foot (jack and bore)		\$943
Original estimate per lineal foot (jack and bore)		\$1,500
Design Engineer actual price per LF micro-tunnel	\$1800 to \$3,600	
Contractor micro-tunnel cost per lineal foot		\$2,631
42" Trenchless Storm Sewer (314 LF)		
Original bid price per lineal foot (jack and bore)		\$674
Original estimate per lineal foot (jack and bore)		\$855
Design Engineer actual price per LF micro-tunnel	\$800 to \$1,300	
Contractor micro-tunnel cost per lineal foot		\$1,379





April 6, 2017

To: Fox Cities Transit Commission

From: Ron McDonald, General Manager

Subject: Rules of Conduct and Exclusion Policy.

Background:

The purpose of this policy is to promote the comfort and safety of Valley Transit employees and customers and to encourage the proper use of Valley Transit facilities and services. Customer and employee safety is a paramount concern for the City of Appleton and Valley Transit. It is important that people know the rules they must follow and follow the rules. By clearly stating what behavior is not appropriate while on a bus or in a transit facility, and how employees should react if such behavior occurs, customers and employees should better understand what is expected of them.

Recommendation: Approve the Valley Transit Rules of Conduct and Exclusion Policy.

CITY OF APPLETON POLICY VALLEY TRANSIT		TITLE: RULES OF CONDUCT AND EXCLUSION PROCEDURE FOR VALLEY TRANSIT
ISSUE DATE:	LAST UPDATE:	SECTION: Fox Cities Transit Commission
POLICY SOURCE: Valley Transit	POLICY APPLICATION: Employees and Public	TOTAL PAGES:
DATE REVIEWED BY LEGAL SERVICES:	COMMITTEE APPROVAL DATE	COUNCIL APPROVAL DATE:

I. PURPOSE

The purpose of this policy is to promote the comfort and safety of Valley Transit employees and customers and to encourage the proper use of Valley Transit facilities and services.

II. POLICY

To keep Valley Transit employees and customers safe, no one is allowed to engage in unsafe or unlawful activity while using Valley Transit facilities or services. There are two levels of conduct that are prohibited in Valley Transit facilities on while using Valley Transits services: Level I (prohibited conduct) and Level II (unlawful conduct). If a person engages in Level 1 conduct they may be given a verbal warning or excluded from Valley Transit facilities and/or services. If a person engages in Level II conduct they may be excluded from Valley Transit facilities and/or services for up to one calendar year.

III. DISCUSSION

Customer and employee safety is a paramount concern for the City of Appleton and Valley Transit. It is important that people (i) know the rules they must follow and (ii) follow the rules. By clearly stating what behavior is not appropriate while on a bus or in a transit facility, and how employees should react if such behavior occurs, customers and employees should better understand what is expected of them.

IV. DEFINITIONS

The following words shall have the following meanings in this policy, except where the context otherwise requires:

Employee means a person employed by the City of Appleton (including Valley Transit) or a person providing a service under contract by Valley Transit (such as paratransit bus operators).

Exclusion means being prohibited from entering or using Valley Transit facilities and services, as determined by Valley Transit.

Facility means property owned, operated, leased or maintained by Valley Transit.

Services means any service offered by Valley Transit or contracted by Valley Transit to be offered on behalf of Valley Transit.

V. PROCEDURES

A. RULES OF CONDUCT

1. “Level I” – Prohibited Conduct. If a person engages in any of the following behaviors, an employee may give the person a verbal warning or may contact a supervisor or the police if the situation warrants. A person issued more than one verbal warning may be excluded from the facilities and/or services for a period to be determined by the General Manager or designee (see section (B) below).
 - a. Alcohol. Drinking alcoholic beverages or possessing open containers of alcoholic beverages in a facility or on a bus.
 - b. Animals. Bringing into a facility or onto a bus any animal that is uncaged or otherwise not permitted, except for service animals, as defined by the ADA. Caged animals must fit on a person’s lap.
 - c. Audio Devices. Using an audio device (phone, iPod, portable radio, DVD player, etc.) in a facility or on a bus unless the equipment is used with earphones or not otherwise audible to others.
 - d. Bus Windows. Hanging out, reaching out, or putting anything out of a bus window.
 - e. Dangerous Items. Bringing into a facility or onto a bus any item of a dangerous nature without malicious intent and unless otherwise lawfully allowed, including, but not limited to: dangerous, toxic or poisonous substances; vessels containing caustic materials, chemicals, acids or alkalis; fishing rods which are not broken down or have unsecured or exposed hooks or lures; ski poles unless secured to skis or have tip covers; sheet glass; sharp objects; fencing foils that are unsheathed; unlawful weapons.
 - f. Flammable Material. Lighting or operating an incendiary device (e.g., match, lighter) without malicious intent.

- g. Hanging/Swinging/Moving. Hanging or swinging from stanchions or other bus equipment with feet off the floor or moving around the bus while the bus is in motion unless otherwise permitted.
 - h. Large Items. Bringing onto a bus large articles, packages, baggage or non-collapsible strollers that block the aisle and restrict the free movement of passengers.
 - i. Littering. Littering in facilities or on a bus.
 - j. Segway's. Use of or bringing a Segway (or like device) onto a bus unless otherwise permitted.
 - k. Smoking. Smoking, including e-cigarettes and vaporizers in a facility or on a bus.
 - l. Solicitation. Engaging in unauthorized canvassing, selling, soliciting or distributing any material that is not otherwise permitted by policy or law in a facility or on a bus.
 - m. Standee Line. Standing in front of the standee line on a moving bus.
 - n. Talking to Bus Operator. Having distracting or unnecessary conversations with a bus driver while the bus is in operation.
 - o. Unmonitored Children. Failing to monitor a child (children five and under must be closely accompanied at all times by an older responsible individual) in a facility or on a bus.
 - p. Wheels. Roller-skating, roller-blading and skateboarding in a facility or on a bus.
2. “Level II” – Unlawful Conduct. Employees must immediately request police assistance upon the reasonable belief that a person is engaged in any of the following unlawful activities at a Valley Transit facility or when using a Valley Transit service. A person known to have or reasonably believed to have engaged in illegal behavior at a facility or when using a service may be excluded by from Valley Transit facilities and/or services for a period to be determined by the General Manager or designee. Examples of illegal conduct include, but are not limited to:
- a. Fighting; engaging in physically threatening or intimidating behavior (Wis. Stat. Ch. 940).

- b. Intentionally using a laser pointer to cause a disturbance; recklessly endangering the safety of others, such as interfering with the operation of a bus (Wis. Stat. Ch. 941).
- c. Use or distribution of counterfeit or stolen fare media; refusing to pay; theft; trespass (Wis. Stat. Ch. 943).
- d. Sexual assault; indecent exposure (Wis. Stat. Ch. 944).
- e. Harassment; disorderly conduct (Wis. Stat. Ch. 947).

B. EXCLUSION PROCEDURE

- 1. Pre-Exclusion Meeting. Prior to being excluded from Valley Transit's facilities or services, the General Manager or designee may request to meet with the person for a Pre-Exclusion Meeting. The goal of the Pre-Exclusion Meeting will be to address the person's conduct and to try to avoid exclusion. The Pre-Exclusion Meeting is voluntary, but failing to attend may result in exclusion.
- 2. Exclusion from Facility and Services. If the General Manager or designee determines that a person should be excluded from transit facilities and/or service the following shall occur:
 - a. Exclusion/Conditional Exclusion Letter. The General Manager or designee shall issue a written "Exclusion Letter" to the person being excluded. If the person is under the age of 18, the letter must also be provided to the person's parent or legal guardian
 - i. Delivery. The Exclusion Letter must be hand delivered or mailed to the person being excluded by regular and certified mail to the person's last known address (obtainable from the Police Department or the Legal Services Department).
 - ii. Contents. The Exclusion Letter must include: (a) the reason for the exclusion, along with the day and time the behavior that lead to the exclusion occurred; (b) the start and end date of the exclusion, (c) the facilities and/or services to which the exclusion applies, and (d) reconsideration and appeal information.
 - iii. Copies. The General Manager or designee must provide a copy of the Exclusion Letter to the Appleton Police Department and must inform all employees who have a need to know about the terms of the exclusion and length of the exclusion.

C. RECONSIDERATION PROCEDURE

1. Reconsideration Request. A person may request their exclusion be modified or discontinued by submitting a Reconsideration Request in writing to the General Manager. If the excluded individual is unable to put their Reconsideration Request in writing, the General Manager or designee must take the request verbally.
 - a. Time. A Reconsideration Request may be made at any time, but no more than one Reconsideration Request may be made by a person in a three (3) month period.
 - b. Contents. A Reconsideration Request must state the reason for the request and may include other written information that is pertinent to the request.
 - c. Response. The General Manager or designee may modify or discontinue the exclusion after reviewing all of the information available to him/her, including the information provided in the Reconsideration Request. If additional information is needed, the General Manager or designee may request a meeting with the excluded individual. If the excluded individual declines to attend the requested meeting, the General Manager or designee must rely only on the information he/she has. The General Manager or designee shall issue a written decision in response to the Reconsideration Request and mail or hand deliver the decision to the excluded individual within seven (7) business days of receiving the Reconsideration Request.

D. APPEAL PROCEDURE

1. Appeal to Fox Cities Transit Commission. A person (appellant) may appeal the Reconsideration Request decision of the General Manager or designee by placing the reason for the appeal in writing and submitting it to the Fox Cities Transit Commission. In the event the individual is unable to put their appeal writing, the Fox Cities Transit Commission Chair or designee shall take the request verbally.
 - a. Time. An appeal may be made at any time once a decision has been made by General Manager or designee regarding a Reconsideration Request.
 - b. Appeals Board. The Fox Cities Transit Commission Chair (“Chair”) shall appoint a special Transit Exclusion Appeals Board (“Appeals Board”) consisting of three (3) members of the Fox Valley Transit Commission, chosen at the discretion of the Chair or the Chair’s designee.
 - c. Hearing. The Appeals Board shall hold a hearing within fifteen (15) calendar days after the appeal request was received by the Chair or designee.
 - i. Notice. Notice of the Appeals Board hearing, including a statement of the time, place and nature of the hearing, shall be mailed or hand delivered to both the appellant and the General Manager or designee at least ten (10) calendar days prior to the hearing.

- ii. Attendance. In the event the appellant is unable to attend the Appeals Board hearing, he/she must immediately notify the Chair or designee. In the case of a documented emergency, such as a medical emergency or weather emergency, the hearing will be rescheduled. In cases not involving documented emergencies, the hearing will be rescheduled at the discretion of the Chair.
- iii. Hearing Procedure. The Chair shall conduct the hearing and shall follow the Conduct of Hearing provided in § 68.11(2), Wis. Stat., for municipal administrative proceedings. The appellant may be represented by counsel, may present evidence, and may call and examine witnesses and cross-examine witnesses. The hearing shall be recorded and kept pursuant to record retention laws.
- iv. Finding. Based on the testimony and the evidence in the record, the Appeals Board shall have the power to affirm, reverse or amend the terms of the exclusion based on whether it is more probable than not that the appellant engaged in the conduct which was the basis for the exclusion. The Appeals Board shall make their decision based on a majority vote. The decision shall be a final determination for the purposes of judicial review.

E. EMPLOYEE SAFETY.

Nothing contained in this policy shall be interpreted to mean that an employee cannot take whatever reasonable and lawful measures are necessary to protect him or herself or the safety of others in the event of an emergency during the course of his/her duties, including calling the police or requesting assistance from a supervisor..

F. POSTING RULES OF CONDUCT

A copy of this policy shall be placed on Valley Transit's website. Printed versions of this policy will also be available at Valley Transit's office, located at 801 South Whitman Avenue, Appleton, WI. An abbreviated version of the policy, titled "Valley Transit's Rules of Conduct" will be posted in a visible location in the Valley Transit center and on each Valley Transit owned bus.

AN ORDINANCE AMENDING CHAPTER 23 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON AND THE OFFICIAL ZONING MAP WHICH IS A PART THEREOF, BY MAKING THE FOLLOWING CHANGES IN THE DISTRICT AS NOW PROVIDED.

(City Plan Commission 04-19-2017)

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

Section 1: That Zoning Ordinance, Chapter 23 of the Municipal Code of the City of Appleton and the Official Zoning Map, which is a part thereof, is amended by making the following changes:

To rezone lands located in the Third Addition to Emerald Valley Subdivision along Providence Avenue between Edgewood Drive and Bluetopaz Drive from AG Agricultural District to R-1B Single-Family District. (Rezoning #1-17 – Emerald Valley Estates, LLC)

LEGAL DESCRIPTION:

PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE NORTH 88 DEGREES 19 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 1031.99 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE AVENUE AND ITS SOUTHERLY EXTENSION, A DISTANCE OF 335.08 FEET; THENCE NORTH 75 DEGREES 42 MINUTES 30 SECONDS WEST, CONTINUING ALONG THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE AVENUE, A DISTANCE OF 0.33 FEET TO THE POINT OF BEGINNING; THENCE NORTH 75 DEGREES 42 MINUTES 30 SECONDS WEST, ALONG THE NORTH LINE OF CERTIFIED SURVEY MAP NO. 6311, A DISTANCE 123.84 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, 280.05 FEET; THENCE NORTH 45 DEGREES 11 MINUTES 26 SECONDS WEST, 53.70 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 33 SECONDS WEST, 107.87 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 100.00 FEET; THENCE NORTH 33 DEGREES 20 MINUTES 53 SECONDS WEST, 206.71 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 61.61 FEET; THENCE NORTH 33 DEGREES 20 MINUTES 53 SECONDS WEST, 120.00 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 197.73 FEET; THENCE 25.16 FEET ALONG AN ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 333.00 FEET AND A CHORD THAT BEARS SOUTH 27 DEGREES 04 MINUTES 53.0 SECONDS EAST, 25.15 FEET; THENCE NORTH 56 DEGREES 39 MINUTES 07 SECONDS EAST, 134.60 FEET; THE FOLLOWING SEVEN CALLS ARE ALONG THE WEST LINE OF THE SECOND ADDITION TO EMERALD VALLEY:

THENCE SOUTH 33 DEGREES 20 MINUTES 53 SECONDS EAST, 116.53 FEET;
THENCE SOUTH 51 DEGREES 48 MINUTES 14 SECONDS WEST, 42.25 FEET;
THENCE SOUTH 33 DEGREES 20 MINUTES 53 SECONDS EAST, 270.58 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 33 SECONDS EAST, 185.00 FEET;
THENCE SOUTH 21 DEGREES 00 MINUTES 01 SECONDS WEST, 153.41 FEET;
THENCE SOUTH 89 DEGREES 59 MINUTES 27 SECONDS WEST, 211.00 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 33 SECONDS EAST, 300.64
FEET TO THE POINT OF BEGINNING. CONTAINING 261,163 SQUARE
FEET [5.995 ACRES].

COMMON DESCRIPTION:

Third Addition to Emerald Valley Subdivision along Providence Avenue between
Edgewood Drive and Bluetopaz Drive

Section 2: This Ordinance shall be in full force and effect from and after its passage and publication, and upon its passage and publication the Director of Community and Economic Development is authorized and directed to make the necessary changes to the Official Zoning Map in accordance with this Ordinance.