



## Meeting Agenda - Final-revised Community & Economic Development Committee

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Wednesday, June 13, 2018

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting

[18-0821](#) CEDC Minutes from 5-23-18

**Attachments:** [CEDC Minutes 5-23-18.pdf](#)

#### 4. Public Hearings/Apearances

[18-0822](#) 2017 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) Program (Associated with Action Item #18-0823)

**Attachments:** [CAPER 2017 - CEDC Public Hearing Notice.pdf](#)

#### 5. Action Items

[18-0823](#) Request to approve the 2017 Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Block Grant (CDBG) Program

**Attachments:** [CAPER memo to CEDC 06-13-18.pdf](#)

[2017-2018 CAPER Draft for Public Comment.pdf](#)

[18-0849](#) Request to waive repurchase rights for Lot 3, Plat 1, in the Northeast Business Park, allowing the transfer from Chad Cassiani to KOM ESOP, LLC; this waiver is not transferable, survivable, or assignable and the City's repurchase rights would remain on the property

**Attachments:** [Memo Repurchase Waiver Lot 3 NEBP Plat 1\\_6-11-18.pdf](#)

[Email requesting waiver to allow sale Lot 3 Plat 1 in NE Bus Park.pdf](#)

[Lots 1-6 NE Business Park Plat 1 Covenants Waiver Except Repurchase Rights](#)

[Offer to Purchase Lot 3 Plat 1 NE Business Park\\_KOM ESOP LLC.pdf](#)

[NEBP\\_311651003.pdf](#)

[18-0881](#) The Community and Economic Development Committee will go into closed session according to State Statute §19.85(1)(e) for the purpose of discussion of real estate negotiations regarding the former Kmart site and reconvene into open session

[18-0880](#) Request approval of Special Use Development Agreement for development of former Kmart site located at 2400 W. College Avenue

**Attachments:** [Dev Agrm - City - Redlined - 06-12-2018.pdf](#)

## 6. Information Items

[18-0843](#) Art in Public Places Policy - Appleton Public Art Committee

**Attachments:** [Art in Public Places Policy-CEDC Final Draft 060618.pdf](#)  
[Appleton Public Art Committee Application.pdf](#)

## 7. Adjournment

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

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

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



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
[www.appleton.org](http://www.appleton.org)

## Meeting Minutes - Final Community & Economic Development Committee

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Wednesday, May 23, 2018

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

**Meeting called to order at 4:30 p.m.**

2. Roll call of membership

*Aldersperson Coenen arrived at 4:31 p.m.*

**Present:** 4 - Coenen, Reed, Aldersperson Dvorachek and Aldersperson Plank

**Excused:** 1 - Aldersperson Baker

*Others present:*

*Nikki Gerhard, Community Development Specialist*

*Nha Pham, Xavier High School*

*Aldersperson Bill Siebers, District #1*

*Aldersperson Curt Koneczke, District #3*

3. Approval of minutes from previous meeting

[18-0736](#)

CEDC Minutes from 5-9-18

**Attachments:** [CEDC Minutes 5-9-18.pdf](#)

**Aldersperson Plank moved, seconded by Aldersperson Dvorachek, that the Minutes be approved. Roll Call. Motion carried by the following vote:**

**Aye:** 3 - Coenen, Aldersperson Dvorachek and Aldersperson Plank

**Excused:** 1 - Aldersperson Baker

**Abstained:** 1 - Reed

4. Public Hearings/Apearances

5. Action Items

[18-0737](#)

Request to approve the REVISED 2018-2019PY Community Development Block Grant (CDBG) funding as specified in the attached community partner allocation recommendations

**Attachments:**    [Alloc Recs Memo to CEDC Final Award 05-09-2018.pdf](#)  
[Alloc Recs Memo to CEDC 11-8-17.pdf](#)  
[REVISED--2018 CDBG Summary of Recommendations.pdf](#)  
[REVISED--2018 CDBG Simple Summary of Recommendations.pdf](#)  
[HUD Notice to postpone AFFH.pdf](#)

**Alderson Dvorachek moved, seconded by Alderson Plank, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Coenen, Reed, Alderson Dvorachek and Alderson Plank

**Excused:** 1 - Alderson Baker

[18-0789](#)

The Community and Economic Development Committee will go into closed session according to State Statute §19.85(1)(e) for the purpose of discussion of real estate negotiations regarding the former K-Mart site and reconvene into open session

*The Community and Economic Development Committee went into Closed Session at 4:44 p.m.*

*Discussion was held.*

*Reed moved, seconded by Alderson Plank, to rise and report, returning into Open Session at 5:31 p.m. Roll Call. Motion carried by a vote of 4-0.*

**Alderson Dvorachek moved, seconded by Reed, to convene in Closed Session. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Coenen, Reed, Alderson Dvorachek and Alderson Plank

**Excused:** 1 - Alderson Baker

## **6. Information Items**

## **7. Adjournment**

**Alderson Dvorachek moved, seconded by Reed, that the meeting be adjourned at 5:32 p.m. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Coenen, Reed, Alderson Dvorachek and Alderson Plank

**Excused:** 1 - Alderson Baker



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

**City of Appleton  
Community Development Block Grant Program (CDBG) Notice of  
2017 Consolidated Annual Performance & Evaluation Report (CAPER)  
Public Hearing**

A public hearing will be held at a regularly scheduled Community & Economic Development Committee meeting on Wednesday, June 13, 2018, beginning at 4:30 p.m. on the Sixth Floor of Appleton City Hall in Council Chambers, 100 N. Appleton Street, Appleton, WI. The CAPER discusses CDBG activities undertaken by the City of Appleton during the 2017 Program Year. The primary function of this hearing is to obtain citizen comments on the submission.

A copy of the CAPER may be found online at <http://www.appleton.org/government/community-and-economic-development/grants-administration/news-announcements> or one copy is available for viewing at the Fifth Floor Customer Service area at City Hall.

The federal CDBG Program aims to develop viable urban communities through provision of decent housing, suitable living environments and economic opportunities, namely for low- and moderate-income persons. For more information on Appleton's CDBG Program, please visit the web site, [www.appleton.org](http://www.appleton.org), CDBG page or contact Nikki Gerhard at 920-832-6469 or email to [nikki.gerhard@appleton.org](mailto:nikki.gerhard@appleton.org).

RUN: June 4, 2018



# MEMORANDUM

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

TO: Community and Economic Development Committee  
FROM: Nikki Gerhard, Community Development Specialist  
DATE: June 13, 2018  
RE: 2017 Consolidated Annual Performance and Evaluation Report (CAPER)

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The City of Appleton has prepared its 2017 Consolidated Annual Performance and Evaluation Report (CAPER) as required by the U.S. Department of Housing and Urban Development (HUD). The CAPER discusses Community Development Block Grant (CDBG) activities undertaken by the City of Appleton during the 2017 Program Year (April 1, 2017-March 31, 2018).

The CAPER was available May 7 - June 6, 2018, for public comment. No comments were received.

Comments on the CAPER will also be accepted during a public hearing that will be held during the June 13, 2018, CEDC meeting. The primary function of this hearing is to obtain citizen comments on the submission.

The City considers all public input received before preparing its final submission, in addition to providing HUD with a summary of such comments as they relate to the 2017 CAPER. The CAPER is due to HUD by June 29, 2018.

A copy of the CAPER may be found online at [www.appleton.org](http://www.appleton.org) on the CDBG Program page or a copy is available for viewing at the fifth floor Customer Service area at City Hall.

Staff requests that CEDC approve the 2017 CAPER.

If you have any questions, please contact me at (920) 832-6469 or [nikki.gerhard@appleton.org](mailto:nikki.gerhard@appleton.org). Thank you!



# Fourth Program Year CAPER (2017)

The CPMP Fourth Consolidated Annual Performance and Evaluation Report includes Narrative Responses to CAPER questions that CDBG, HOME, HOPWA, and ESG grantees must respond to each year in order to be compliant with the Consolidated Planning Regulations.

## GOALS & OUTCOMES (CR-05)

***Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)***  
***This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.***

The primary goal of the City of Appleton's Community Development Block Grant (CDBG) program is to develop a viable urban community through *the provision of decent housing, suitable living environments, and economic opportunities, namely for low- and moderate-income persons*. Although rehabilitation of affordable housing has traditionally been the largest, single use of CDBG funds in Appleton, the program also assisted agencies who provided public services and improved public facilities for lower-income populations.

The City of Appleton's CDBG entitlement award for the 2017 program year, operating April 1, 2017, through March 31, 2018, was \$550,037. Requests for funding totaled \$553,319; approximately a 1:1 ratio for distribution. The resulting 2017 CDBG awarded programs all addressed priority needs from the 2015-2019 Consolidated Plan and approximately 87 percent of the funding benefited low- to moderate-income individuals and families.

**The City of Appleton's Homeowner Rehabilitation Loan Program-** provided financial and related technical assistance for low- to moderate-income homeowners in the City of Appleton for the rehabilitation of 28 properties- four assisted through a combination of HOME and Lead Hazard funds, and 24 through CDBG funding.

**The City of Appleton's Neighborhood Grant Program-** *developed bonds and strengthened communications between City Hall and Appleton neighborhoods* through a local senior center, which received funding to significantly upgrade the facility and serve approximately 469 individuals.

**Appleton Housing Authority-** *while promoting quality affordable housing for all residents of the City of Appleton*, seven households received rehabilitation assistance, eight first-time homebuyers received assistance with down payment and closing costs, and 37 households received home-buyer counseling.

**Fox Valley Warming Shelter-** offered shelter and basic necessities to 561 individuals experiencing

homelessness, totaling 19,630 shelter nights, in 2017.

**Harbor House-** led a community-wide partnership in the prevention of domestic violence and abuse and offered safety and support to 125 diverse households in crisis.

**Homeless Connections-** provided shelter and case management to 210 individuals and families, and connected them to resources that promoted self-sufficiency and prevented future episodes of homelessness.

**LEAVEN, Inc.-** through the provision of financial assistance, referrals, and case management, 64 households on the brink of homelessness were stabilized and empowered to address their near-term and long-term basic needs.

**Metropolitan Milwaukee Fair Housing Council-** promoted fair housing and provided services to 1,322 recipients, including fair housing education and outreach for consumers and providers, social service agencies, and community-based organizations; complaint intake and counseling; and technical assistance.

**Mooring Programs-** served 209 men- for a total of 11,495 days- providing treatment needed to help in the recovery from alcohol, drug, and chemical dependency.

**National Alliance on Mental Illness Fox Valley (NAMI)-** through their Iris Place Peer Run Respite program, provided mental health peer support and resource connection to 139 individuals experiencing emotional distress or crisis.

**Salvation Army of the Fox Cities-** upgraded a local food pantry facility to ensure safety, accessibility, and code compliance for 5,555 individuals served in the Appleton community.

**STEP Industries-** offered hope to 369 individuals (83 City of Appleton) recovering alcoholics, chemical dependents and co-dependents by providing job readiness training, vocational skills, and residential living programs.

***Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee's program year goals.***

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Acquisition-new housing	Affordable Housing	CDBG: \$	Homeowner Housing Added	Household Housing Unit	15	6	40.00%	0	0	0.00%



Acquisition - new housing	Affordable Housing	CDBG: \$	Homeowner Housing Rehabilitated	Household Housing Unit	0	0		0	0	
Admin	Admin	CDBG: \$	Other	Other	1	1	100.00%			
Homebuyer assistance	Affordable Housing	CDBG: \$	Public service activities for Low/Mod Income Housing Benefit	Households Assisted	40	40	100.00%	40	40	100.00%
Homebuyer assistance	Affordable Housing	CDBG: \$	Direct Financial Assistance to Homebuyers	Households Assisted	40	13	32.50%	4	8	200.00%
Improve & maintain housing stock	Affordable Housing Non-Homeless Special Needs	CDBG: \$	Homeowner Housing Rehabilitated	Household Housing Unit	181	118	65.19%	30	35	116.67%
Neighborhood revitalization	Non-Housing Community Develop.	CDBG: \$	Public Facility/ Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	10000	0	0.00%	4000	0	0.00%
Public facilities improvement and maintenance	Non-Housing Community Develop.	CDBG: \$	Public Facility/ Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	900	6860	762.22%	6500	6024	92.68%
Public services	Homeless Non-Homeless Special Needs Non-Housing Community Develop.	CDBG: \$	Public service activities other than Low/Moderate Income Housing Benefit	Persons Assisted	5500	1624	29.53%	623	572	91.81%
Public services	Homeless Non-Homeless Special Needs Non-Housing Community Develop.	CDBG: \$	Homeless Person Overnight Shelter	Persons Assisted	0	1738		1054	896	85.01%

Rental rehabilitation	Affordable Housing	CDBG: \$	Rental units rehabilitated	Household Housing Unit	40	6	15.00%	0	0	0.00%
Rental rehabilitation	Affordable Housing	CDBG: \$	Homeowner Housing Rehabilitated	Household Housing Unit	0	0		0	0	

**Table 1 - Accomplishments – Program Year & Strategic Plan to Date**

***Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.***

The City of Appleton's 2017 CDBG funding was focused primarily on housing and public facility rehabilitation, with four awarded agencies addressing this category. In addition, funds were allocated to six public service agencies. Funded projects addressed strategic plan objectives- decent housing, suitable living environment, and expanded economic opportunity- and high priority needs identified in the 2015-2019 Consolidated Plan-housing rehabilitation and accessibility improvements, public services and public facility improvements.

**The City of Appleton's Homeowner Rehabilitation Loan Program (HRLP)** assisted low- and moderate-income homeowners with the ability to live in decent, safe, and sanitary housing by providing zero-interest loans for rehabilitation needs. All homes were made code compliant and lead safe.

**The City of Appleton's Neighborhood Grant Program** collaborated with a local neighborhood and nonprofit agency to upgrade a senior center facility that offers activities and programs specifically for elderly and disabled, low- to moderate-income households in the community.

The **Appleton Housing Authority** provided low- and moderate-income households with homebuyer and rehabilitation assistance and counseling, enabling households to purchase their first home, correct code violations, and live in a safe environment.

**Fox Valley Warming Shelter** provided supportive services to individuals experiencing homelessness including shelter, basic necessities, and access to additional community services in an effort to improve their current situation.

**Harbor House**, the only domestic violence shelter serving the City of Appleton, provided women and children in abusive households access to a safe living environment with basic necessities, safety planning, emotional support, counseling, education, and advocacy.

**Homeless Connections** provided extremely low and no-income individuals and families experiencing homelessness with shelter, basic necessities, and access to community supportive services to improve their situation. Additionally, the Case Management Services Program helped clients achieve a greater level of self-sufficiency by assessing their barriers to housing and employment.

**LEAVEN, Inc** provided emergency financial assistance to low- and moderate-income households on the

brink of homelessness in an effort to stabilize housing.

The **Mooring Programs** provided individualized comprehensive treatment programs to men struggling with alcohol, drug, and chemical dependency.

**NAMI Fox Valley** provided mental health peer support and resource connection to respite center guests and warm-line callers.

The **Salvation Army of the Fox Cities** improved access to food pantry services for City of Appleton low-income residents.

**STEP Industries** provided transitional employment, job skills training, advocacy, and mentoring to individuals in recovery from alcohol and substance abuse.

Progress was not made toward meeting goals under new housing acquisition due to circumstances beyond the City's control. Community partners and nonprofit agencies that have provided services meeting these goals in the past experienced setbacks preventing additional progress, as originally anticipated. It is the City's hope, and expectation, that progress will be made under this priority need in future program years.

## RACIAL & ETHNIC COMPOSITION OF FAMILIES ASSISTED (CR-10)

*Describe the families assisted (including the racial and ethnic status of families assisted). 91.520(a)*

	CDBG
White	1,844
Black or African American	362
Asian	247
American Indian or American Native	89
Native Hawaiian or Other Pacific Islander	32
<b>Total</b>	<b>2,574</b>
Hispanic	269
Not Hispanic	2,305

**Table 2 – Table of assistance to racial and ethnic populations by source of funds**

A map has been attached to this report (2017 CDBG LMI) that depicts the location of 2017 CDBG-funded activities. "Site" represents locations where these projects originate, while "Activity" represents locations where CDBG-funded projects occurred (i.e. housing rehabilitation). LMI Block Groups are outlined and Blocks are shaded according to minority percentages.

## RESOURCES & INVESTMENTS (CR-15)

### *Identify the resources made available*

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG		712,109	897,267

**Table 3 – Resources Made Available**

All of the 2017PY sub recipients utilized several other funding resources for the successful implementation of their programs. The City of Appleton gives preference to CDBG applicants who can demonstrate well-established budgets utilizing various funding sources for their programs.

The resources directly reflected in this report include: CDBG grant awards and program income generated from the Appleton Housing Authority and the City of Appleton's Homeowner Rehabilitation Loan Program (HRLP).

### **Identify the geographic distribution and location of investments**

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description

**Table 4 – Identify the geographic distribution and location of investments**

A map has been attached to this report (view 2017 CDBG LMI map, located under CR-10, *Racial and Ethnic Composition of Families Assisted*) that depicts the location of 2017 CDBG-funded activities. "Site" represents locations where these projects originate, while "Activity" represents locations where CDBG-funded projects occurred (i.e. housing rehabilitation). LMI Block Groups are outlined and Blocks are shaded according to minority percentages.

### **Leveraging**

***Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.***

While the City of Appleton does not implement a match requirement associated with CDBG funding, all of the 2017 CDBG sub recipients utilized several other funding resources for the successful implementation of their programs.

**STEP Industries (now operating as Apricity)** has always operated as a social enterprise with the goal of being as self sustaining as possible. In 2017, STEP was 85 percent self-sufficient through revenue generated by their co-packing services, accumulating a total of approximately \$1,595,259. In addition to seeking CDBG dollars, STEP sought support from local community organizations, including the

Community Foundation for Fox Valley Region, United Way, US Venture, the JJ Keller Foundation, and the Oshkosh Area Community Foundation, totaling nearly \$290,000 in grants.

**Appleton Housing Authority** continued to utilize multiple funding sources, including HOME (\$170,000) and HCRI (\$230,517), in addition to CDBG. During the 2017PY, AHA partnered with SECURA Insurance to administer an Employer-Assisted Homeownership Program.

**Salvation Army of the Fox Cities** utilized private funding totaling approximately \$33,702 to complete the roofing project, as well as interior improvements. A local contractor donated a new HVAC system, valued at \$7,000.

**Fox Valley Warming Shelter's** funding sources were wide-ranging, including churches (\$35,554); government grants, a State of Wisconsin Shelter Subsidy grant (\$31,300); a State of Wisconsin Emergency Solutions grant (\$25,000); corporate donations (\$80,188); private organization donations (\$38,726); and individual donations (\$154,633).

The **Mooring Programs** leveraged funding from multiple sources to assist with the entire treatment facility rehabilitation project. These sources included private donations (\$119,372), income from self-paying clients (\$118,056), AODA Crisis On-Call income (\$38,325), and insurance payments (\$39,470).

**NAMI** leveraged funds granted from the State of Wisconsin (\$444,665) to subsidize staff wages and provide peer run respite services.

Funding for **Harbor House's Domestic Violence Shelter** was obtained from numerous sources, including government (\$53,500) and non-government grants (\$55,000), United Ways (\$35,879), donations (\$218,503), and fundraising events (\$64,276). The Shelter also received significant amounts of in-kind donations, totaling \$207,626, which helped to provide food, personal care items, linens, etc. that benefited the residents and kept the Shelter's operation in budget.

**Homeless Connections** develops a Strategic Fund Development plan annually, which incorporates specific activities to sustain their vital programs. For 2017, these activities included garnering contributions from United Way Fox Cities (\$144,000), Bemis Foundation (\$40,000), US Venture (\$35,000), the JJ Keller Foundation (\$75,000), and Outagamie County (\$45,000).

Because **LEAVEN's** CDBG allocation only represents about four percent of their total operating budget, fundraising efforts are continuous. LEAVEN's administration relied heavily on in-kind donations through a team of volunteers writing approximately 80 grant applications, which resulted in funding of nearly \$114,154 in faith-based funds; \$385,005 from various foundations; \$113,204 from other government funding; and \$16,685 from other organizations. Fundraising events held in 2017 resulted in \$98,636 donated by businesses and \$228,358 by various individuals.

The "leverage" for the **City of Appleton's Homeowner Rehabilitation Loan Program** was primarily in the

form of maintaining the housing stock of the City of Appleton, and increasing the tax base. Although that doesn't directly benefit the program financially, it does increase the quality of life for the participants, the neighborhoods they live in, and the City as a whole. In addition to CDBG funds, the HRLP received CDBG program income (\$287,203), HOME Homeowner program income (\$23,990), and Lead Hazard Control program income (\$2,153) to supplement the rehabilitation program.

**Metropolitan Milwaukee Fair Housing Council** primarily leveraged CDBG funds with funding received through the US Department of Housing and Urban Development (\$9,018); however, additional funds were received from the State of Wisconsin (\$680) and private foundation sources (\$3,409).

## AFFORDABLE HOUSING (CR-20)

*Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.*

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	30	35
Number of Special-Needs households to be provided affordable housing units	0	0
<b>Total</b>	<b>137</b>	<b>107</b>

**Table 5- Number of Households**

	One-Year Goal	Actual
Number of households supported through Rental Assistance	103	64
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	30	35
Number of households supported through Acquisition of Existing Units	4	8
<b>Total</b>	<b>137</b>	<b>107</b>

**Table 6 - Number of Households Supported**

*Discuss the difference between goals and outcomes and problems encountered in meeting these goals.*

Trending the past several years, release of the 2017 CDBG funds was significantly delayed, and as a result, the expenditure of the award was delayed. This specifically disrupted the activity for sub recipients' projects. Some agencies encountered specific causes for delayed and modified goals.

Both **Homeless Connections** and the **Fox Valley Warming Shelter** experienced several external influences which affected outcomes and clients served. However, the primary unforeseen influence was operating at maximum capacity with an extensive waiting list every single night in 2017. This prohibited client access to shelter during times of housing crisis and need.

***Discuss how these outcomes will impact future annual action plans.***

While the timeliness of the release and award of funding is beyond discretionary control, the City of Appleton intends to focus future funds on one-time use applications from community agencies- largely including projects that make repairs and necessary modifications to their program's current housing stock and public facilities. Also, the City intends to retain a larger portion of the award for in-house projects and programs.

***Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.***

Number of Persons Served	CDBG Actual	HOME Actual
Extremely Low-income	847	0
Low-income	1,727	0
Moderate-income	63	0
<b>Total</b>	<b>2,637</b>	<b>0</b>

**Table 7 – Number of Persons Served**

All of the City of Appleton's CDBG funded programs for the 2017 program year, with the exception of the administrative activities, benefited low- to moderate-income persons and households.

## **HOMELESS & OTHER SPECIAL NEEDS (CR-25)**

***Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:***

***Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs***

**LEAVEN** identified individuals experiencing homelessness through their intake process. Once identified, housing was secured for clients who could sustain rent and those that could not were referred to emergency shelter (Fox Valley Warming Shelter, Homeless Connections, or Harbor House based on their specific needs), transitional, or other supportive housing programs- as appropriate for their situation.

While staying at the **Fox Valley Warming Shelter**, clients were provided with a safe, secure facility to sleep, and were offered hot meals, shower facilities, access to laundry, as well as opportunities to connect with resources based on individual assessment. The Warming Shelter offered these opportunities and provisions as many times as necessary- through ups and downs- because oftentimes, the Warming Shelter is the last, but best hope for these individuals.

**Homeless Connections** operated a Street Outreach Program, which sought out individuals and families experiencing homelessness and connected them with the appropriate agencies and services. Homeless Connections also offered a Shelter Program, which provided safe, temporary shelter for men, women, and children who were experiencing homelessness. Residents were provided with personal care items and meals to meet their basic needs, as well as an opportunity to participate in the Case Management Program. In this program, case managers assessed each individual, and identified their barriers to achieving self-sufficiency. Clients and case managers collaborated to develop an individualized plan with short- and long-term goals addressing these barriers and connecting them to community resources. Some of these community resources were offered in-house to best meet the needs of clients, including financial coaching (through FISC), legal services (through Legal Action), physical and emotional health services (through Partnership Community Health Center), economic support services (through Outagamie Health and Human Services), and occupational therapy services (through Fox Valley Technical College).

**Harbor House** provided 24-hour access to safe shelter for victims of domestic violence, including their children. No victim of domestic violence seeking shelter was turned away [if eligible]. During the 2017PY, only three percent of victims that sought shelter at Harbor House were considered ineligible. The Shelter's intake process included a full assessment of immediate physical and emotional needs. Advocates met with the Shelter families continuously to assess their needs and modify accordingly.

**Metropolitan Milwaukee Fair Housing Council (MMFHC)** and the local satellite office, Fair Housing Council of Northeast Wisconsin (FHCNW), conducted regular outreach services to organizations that serve individuals experiencing homelessness with intentions to provide education and resources that may impact housing solutions. During the 2017PY, staff provided four presentations at Homeless Connections, covering topics such as: purposes and provisions of local, state, and federal fair housing laws; contemporary forms of illegal discrimination in the housing market; "red flags" that may indicate the presence of unlawful discrimination in housing transactions; remedies available to people who have experienced illegal housing discrimination; and how complaints of illegal discrimination are investigated.

### ***Addressing the emergency shelter and transitional housing needs of homeless persons***

The main objective of **Homeless Connections'** housing first shelter model is to encourage clients to achieve housing stability and independence by connecting them to permanent housing solutions. Through the Fox Cities Housing Coalition, Homeless Connections continued to participate in the local coordinated entry process, which assesses, prioritizes, and connects clients with suitable housing solutions based on their individual needs.



Similarly, the **Fox Valley Warming Shelter** provided clients with information for various transitional housing options based on client assessment and prioritization through the Fox Cities Housing Coalition coordinated entry process.

Part of the advocacy **Harbor House** provides includes assistance with obtaining permanent housing. Also members of the Fox Cities Housing Coalition, Harbor House remained abreast of current affordable housing availability in the community, and participated in efforts made by the Coalition to improve housing solutions for individuals experiencing homelessness.

Financial independence is the number one indicator of reoccurrence. The economic advocacy offered through Harbor House is intended to help reduce length of homelessness by offering opportunities to work on long-term economic independence.

**LEAVEN** collaborated with the Fox Valley Warming Shelter, Harbor House, Homeless Connections, and COTS to help shelter residents move into permanent housing solutions, specifically providing financial assistance.

**The City of Appleton** acted as the fiscal administrator for the Fox Cities Continuum of Care Rapid Re-Housing Program and State of Wisconsin Emergency Homeless and Housing Program, serving as the lead agency and administering funds to Housing Partnership of the Fox Cities, Salvation Army of the Fox Cities, Fox Valley Warming Shelter, Homeless Connections, and ADVOCAP. While not all of these agencies received 2017PY CDBG funds, all of these agencies maintain housing units and programs that address needs of individuals and families experiencing homelessness in the Appleton community.

***Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs***

Homelessness and poverty are expensive, and impact the quality of life for the entire community; prevention is relatively affordable compared to the costs of waiting for the crisis to escalate. “An ounce of prevention is worth a pound of cure.” This adage describes why it’s easier and more cost-effective to prevent a problem from occurring than it is to repair the damage done later. While all 2017PY CDBG subrecipients focused their programs and efforts on serving low- and moderate-income families and individuals, several community agencies focused on preventing families and individuals from experiencing homelessness.

**LEAVEN's** financial support and assistance prevented individuals and families from slipping into greater poverty, homelessness, and ill health. LEAVEN’s rental and utility assistance ensured that individuals and families were stably housed, thereby preventing eviction, disconnection, and homelessness. The security

deposit assistance ensured occupancy in safe, affordable housing, thereby preventing extended shelter stay or remaining in abusive relationships.

**Homeless Connections**, partnering with LEAVEN, operated a Homeless Prevention Program, which addressed the needs of people imminently at-risk of homelessness. In 2017, the prevention assistance served 274 households (755 people), successfully keeping 99 percent of those households in their community housing and out of shelter. Only 29 percent of the 968 individuals assisted in 2016 returned for additional assistance in 2017.

The **Mooring Programs** and **STEP Industries** (now operating as Apricity) offered a resource for those in early recovery to have a new beginning living a clean and healthy lifestyle. Because learning to live a drug and alcohol free life takes more than 28 days of treatment, STEP offered three Sober Living Houses- two for men and 1 for women- available to individuals leaving treatment who needed a safe place to work, live, and socialize. The Mooring Programs' Male Apartment Program played an important role in helping clients find stability and prevent episodes of homelessness. By offering a supportive environment to practice the tools necessary, the men were able to continue forward on their road to recovery.

Without safe and affordable housing options, families experiencing domestic violence are more apt to become homeless or homeless again. **Harbor House** continued to partner with Housing Partnership of the Fox Cities providing six transitional housing units, specifically for those affected by domestic violence. The support received at Harbor House continued once they became a part of the transitional housing program.

Harbor House also offered the Rent Smart curriculum, which helped victims get into housing with landlords, understand their rights and responsibilities, and ultimately prevent future episodes of homelessness.

Any services provided by the **Metropolitan Milwaukee Fair Housing Council's (MMFHC)** that prevent housing discrimination from being a barrier to housing opportunities may have prevented episodes of homelessness. Similarly, MMFHC's Enforcement Services- which assisted complainants in losing housing due to unlawful discrimination- served to prevent homelessness.

***Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again***

The City of Appleton, collaborated with several CDBG sub recipient organizations, with the facilitation of the Fox Cities Housing Coalition, to ensure that a Continuum of Care strategy was executed

appropriately in the community.

Reports and recent data had shown that the number of individuals and families experiencing homelessness in the Fox Cities has not been decreasing. As a result, the City of Appleton, and its partners, identified that additional rapid re-housing and permanent supportive housing programs were necessary. Throughout 2017, the Fox Cities Housing Coalition reclassified all transitional housing programs to rapid re-housing programs in an effort to minimize the affordable housing gap and get clients housed quickly.

In addition, the FCHC initiated the planning process to open a Day Resource Center, which will house many local service providers on-site, as well as a housing navigator, in the summer of 2018.

## **PUBLIC HOUSING (CR-30)**

### ***Actions taken to address the needs of public housing***

While the City of Appleton worked closely with the Appleton Housing Authority to address issues related to affordable housing, no portion of the 2017 CDBG funds were directly used to create or address needs of their public housing stock.

### ***Actions taken to encourage public housing residents to become more involved in management and participate in homeownership***

The Appleton Housing Authority's Homebuyer Program marketed their program to the Family Self-Sufficiency Program and the Public Housing Family Program. Past and current participants of both programs received home buyers counseling throughout 2017 and comprised five percent of total households receiving counseling.

### ***Actions taken to provide assistance to troubled PHAs***

The Appleton Housing Authority was not designated as a trouble housing authority.

## **OTHER ACTIONS (CR-35)**

### ***Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)***

The **City of Appleton** worked closely with developers and homeowners that encountered barriers to affordable housing and guided them through any administrative channels they could utilize to overcome

those barriers.

Often, the homeowner down payment assistance administered by the **Appleton Housing Authority** made mortgage payments affordable for first-time homebuyers, and sometimes the funds provided by supplemented a homeowner's down payment enough to avoid paying private mortgage insurance (PMI). Many times, the affordable houses purchased were in significant need of rehabilitation and without the Housing Authority's rehabilitation assistance, upgrades would not have been affordable.

**LEAVEN's** goal is to strengthen outcomes to ensure their clients are transitioning from crisis management to self-sufficiency. LEAVEN eliminated many barriers their clients faced by offering vital services on-site through their Community Resource Center, and developing action plans that addressed both short- and long-term needs.

**Homeless Connections** employed a specialized case manager known as a housing navigator in late 2017. This role is responsible for assisting clients in locating and securing housing. Oftentimes, clients have multiple evictions, civil judgments, poor rental history, bad credit and criminal histories that result in their applications for housing being rejected. The housing navigator will help to improve a client's standing with rental companies and landlords by resolving credit issues and civil judgments, and steering clients into programming that demonstrates self-improvement. The housing navigator will also advocate on behalf of the client with landlords and attempt to demonstrate the benefits of providing housing.

The **Homeownership Rehabilitation Loan Program** helped property owners maintain their homes so that they could continue to live in the home most affordable to them. Many of these homeowners have satisfied their mortgage, or have a low mortgage payment. With increased rents and an extremely competitive housing market, for most, homeownership is a better option for long-term affordability.

***Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)***

**STEP Industries** (now known as Apricity Contract Packaging) shifted towards a more direct approach in 2017, focusing on solutions rather than issues to better serve the men and women who were once mired in addiction and are now striving to create healthier lives. The organization employed eight Life Coaches, who assisted participants to identify and understand the issues that have restrained them from moving forward (i.e. obtaining GED), and have gained knowledge on adverse childhood experiences, trauma-informed care and motivational interviewing. The Education Development Specialist worked closely with the Programming Director to establish goals with participants within weeks of initial employment. All of these components enhanced the services offered through STEP and helped participants achieve self-sufficiency quicker.

The **Mooring Programs** offered both treatment for clients substance use disorder and education. These two aspects together are vital for living effectively. Participating men were required to be actively involved in counseling for support and education on substance use disorder, and were expected to develop regular attendance to support group meetings. In addition, educational opportunities were

available for the men through FISC and the AIDS Resource Center of Wisconsin.

Individuals and families experiencing homelessness must overcome many obstacles to access services that are or will be necessary in attaining self-sufficiency. For example, many are not yet enrolled for healthcare insurance, either through the federal exchanges or through Wisconsin Badger Care. In addition, connecting clients to some form of housing is vitally important. Studies have shown that once a client is connected to housing, they can focus on other aspects of importance in their life. **Homeless Connections** partnered with various agencies to provide services to assist clients with overcoming their obstacles, including: shelter facilities, case management services, peer support, access to mental and physical healthcare, SSI/SSDI applications and advocacy, provision of basic necessities, homeless prevention services, housing advocacy, rental assistance, and transportation assistance.

The Thompson Center's public facility upgrades, funded through the **City of Appleton's Neighborhood Grant Program**, ensured safety and code compliance for the elderly and disabled clients served through the programs and activities offered. Without the upgrades, continued operations at this facility would have been in jeopardy and the programs offered at this facility likely would have ceased.

Finding safe and affordable housing continued to be a significant challenge for **Harbor House** residents and continued to strain Shelters resources, particularly contributing to remaining over capacity. When operating over capacity, Harbor House utilized programming rooms as living quarters. As a result, capital campaigning was conducted and bed capacity will be increased from 55 to 68 in future years.

Becoming self-sufficient is a key component to finding and maintaining adequate housing for families beyond shelter. Harbor House's Economic Advocacy Program, implemented in 2013, continued to help clients remove barriers to maintaining employment, such as lack of childcare and transportation. In 2017, the shelter was over capacity 63 percent of the time. Twenty percent of Harbor House shelter residents participated in the Economic Advocacy Program- which resulted in 54 percent of participants obtaining employment and earning a minimum income of \$1,200 per month. Fifty-nine percent of participants increased their income overall.

#### ***Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)***

In all instances of affordable housing rehabilitation projects- including the **Appleton Housing Authority and the City of Appleton's Homeowner Rehabilitation Loan Program**- the units were inspected under multiple assessments, including lead risk. If lead hazards did exist, the organization was required to address the hazards as part of the rehabilitation, and at project completion, undergo clearance tests to ensure that the unit was lead safe.

Every home that participated in the **Homeownership Rehabilitation Loan Program** received a Lead Risk Assessment and was inspected for lead hazards. All lead hazards were corrected as part of the

rehabilitation process and final clearance tests were performed to ensure that the home was lead safe.

While the City of Appleton Health Department did not utilize CDBG dollars to fund the program in 2017, they administer a Lead Prevention Outreach Program to families in the City of Appleton who have children at least six months of age and are residing in pre-1950 housing.

***Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)***

The **Appleton Housing Authority** provided a mechanism for breaking the poverty cycle through its affordable Homeownership Program. Obtaining a mortgage and affordable home for many low- to moderate-income families provides some stability with a lower cost of living and community investment.

**Salvation Army of the Fox Cities** offered food pantry access and services to low-income residents of Appleton. While it doesn't eliminate poverty, access to food during financially stressful times has shown to reduce the likelihood of deciding between paying rent or buying a gallon of milk.

**Homeless Connections** collaborated with the Fox Valley Technical College to operate an Adult Basic Education Program, enabling clients to earn their GED or HSED. Once GEDs or HSEDs were earned, clients could enter the Fox Valley Technical College and pursue a Certificate Program or an Associate Degree program that, upon graduation- could assist the client in obtaining a job that provided a living wage.

While CDBG funding did not directly contribute to the job creation, **NAMI Fox Valley** was able to incorporate eight new jobs that provided entry-level job skills and training that will help equip these individuals in pursuance of careers in the peer support field.

Nearly 80 percent of **STEP** clients who received one-on-one group education through the Vocational Learning Center advanced onto new employment during 2017. Since the implementation of the Vocational Learning Center, STEP has experienced a higher percentage of participants exiting to permanent employment, further education, or return to family. Throughout the past several years, more than half of participants have been positively exiting to permanent employment opportunities.

The **Mooring Program's** foundation for recovery is imperative to the development of a life of self-sufficiency and economic independence. Addressing the substance use disorder, understanding and recognizing the triggers that often lead to the initial and relapsed use, and utilization of tools learned to combat those triggers are what forms the foundation. The responsibility and self-respect that is built off of that foundation are the behaviors that foster the desire to establish solid work histories and become productive citizens. By providing a high quality of treatment, Mooring experienced a significant drop of unemployed men at admittance (55%) to unemployed men at discharge (14%).

The goal of **LEAVEN's** Community Resource Center is to help clients transition from crisis management

to self-sufficiency. The Center provided ease of access and imposed accountability on clients connected with resources that address the root causes of poverty. Onsite partners provided education, employment, and financial literacy services, enrollment in public benefits and health insurance, access to legal aid and mental health counseling, support and advocacy to victims of domestic violence, and linkages to medical and dental care.

Coming into shelter can be a stressful time for all clients. As a result of the crisis in their lives, some individuals are actually unable to maintain employment. They find it difficult to fulfill job duties, and lose jobs because of poor attendance and moral. By focusing more on economic advocacy, a number of **Harbor House Shelter** residents have moved into economic independence. Participating in job skills training opportunities and receiving support after obtaining employment has proven to increase the levels of success. With this stability and the potential of earning a wage above the poverty level, participants are less likely to return to Harbor House once they leave. Nearly 59 percent of individuals who participated in the Economic Advocacy Program reported an increase of income after 30 days.

***Actions taken to develop institutional structure. 91.220(k); 91.320(j)***

Public institutions, non-profit organizations, and private companies comprise the institutional structure that supports the City of Appleton's community development activities. The City of Appleton, as the major public sector component, served as the lead fiscal and administrative agent for all community development grant programs, including the Community Development Block Grant (CDBG) Program, Continuum of Care/Supportive Housing Program (COC/SHP), and the Emergency Shelter Grant/Transitional Housing Program/Homeless Prevention Program (ETH). The Community and Economic Development and Finance Departments work together to administer these grants.

The following outlines the major components within the City of Appleton's institutional structure by sector.

1. City of Appleton Departments/Programs
  - a. Community and Economic Development Department
  - b. Finance Department
2. Other Public Sector
  - a. Appleton Housing Authority
  - b. Outagamie Housing Authority
  - c. Outagamie County Department of Health & Human Services
3. Other Funders
  - a. United Way of the Fox Cities
  - b. Community Foundation for the Fox Valley Region
  - c. JJ Keller Foundation
  - d. US Venture/ Schmidt Family Foundation
4. Private Sector
  - a. Churches

- b. Contractors for housing/commercial rehabilitation
- c. Companies that provide grants, services, discounts, donations, in-kind services, etc.

The City of Appleton continued to encourage open lines of communication and discussions regarding community development needs in the area.

***Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)***

Throughout the reporting period, **Appleton Housing Authority** worked with several other private housing agencies to identify first-time homebuyers in the City of Appleton who would benefit from down payment and closing cost assistance to achieve affordable homeownership.

The **Fox Cities Housing Coalition**, of which all 2017 CDBG sub recipients are members, actively sought to continue and enhance coordination between public and private housing and social service agencies. Each agency in the Coalition worked to ensure that all individuals experiencing homelessness- regardless of the reason- were provided with the shelter and support needed. Further, several of these agencies are also members of the Wisconsin Balance of State Continuum of Care, which is a state-wide membership actively seeking to enhance coordination between public and private housing and social service agencies, and ultimately end homelessness.

The fourteen organizations comprising the **LEAVEN** Community Resource Center will connected people with both public benefits and nonprofit services. The new client database ensure that systems are keeping pace with the new delivery model, allowing LEAVEN to monitor the initiation, follow-through, and outcomes of the referrals made between organizations.

The **Mooring Programs** incorporated a Client Care Coordinator to streamline services, and coordinate with Partnership Community Health Services and dental clinic to provide participating clients with medical and dental care.

**Harbor House's** Economic Advocacy Program enhanced coordination between three local agencies to assist clients find and maintain housing and employment.

Every **Homeownership Rehabilitation Loan Program** applicant was notified of other community programs they would qualify for and that may better serve their needs. For example, homeowners with accessibility needs were referred to other programs that specialize in meeting those needs. In return, other community programs referred clients to the Homeownership Rehabilitation Loan Program when it could better serve their needs.

Through a \$25,000 grant award, the **Metropolitan Milwaukee Fair Housing Council** (MMFHC) conducted activities that affirmatively furthered fair housing and helped create a more equitable, inclusive, and fair housing market in the City of Appleton. While some of the most important outcomes



of the project activities are long-term, and not easily measured in the time span of a single program year, proposed activities were designed to have the following outcomes:

- 1) Appleton residents who received fair housing educational services have increased knowledge of fair housing rights and increased ability to seek appropriate resources for fair housing and non-fair housing related issues, resulting in referrals and complaints. Presentations offered to home seekers and their advocates empowered housing consumers to become better self-advocates, to recognize discriminatory experiences, and seek remedy and/or other resources after experiencing illegal housing discrimination.
- 2) Provision of technical assistance and training to housing providers resulted in greater compliance with fair housing laws and fewer incidents of illegal discrimination. Technical assistance provided to nonprofit housing providers and providers of housing-oriented support services disseminated information regarding the provisions of fair housing laws, including information essential to conducting business in compliance with fair housing laws.
- 3) Direct service fair housing enforcement services provided victims of illegal housing discrimination with increased access to legal remedies. Services provided to victims included counseling on fair housing rights and access to enforcement services, including fair housing testing- the most effective evidence gathering method in fair housing enforcement. The quality of services ensured credible and objective evidence, thus maximizing the successful resolution of complaints. In addition, persons with non-fair housing inquiries received information regarding fair housing issues and were referred to other community resources.

Specifically, MMFHC provided a training opportunity to 23 housing providers- opening doors to hundreds of housing units. The training seminar covered in-depth information about local, state and federal fair housing laws; how to make reasonable accommodations and modifications for tenants with disabilities; advertising rental units in compliance with fair housing laws; non-discriminatory negotiation with prospective tenants, and much more. Attendees learned how to implement fair housing practices at every stage of a housing transaction, from showing available units to terminating tenancy. Attendees also received written information about fair housing. Staff of MMFHC also conducted dozens of community contacts with City of Appleton organizations and distributed over 1,200 copies of fair housing informational materials. These materials provided a comprehensive overview of fair housing protections and how victims of unlawful discrimination can seek assistance.

***Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)***

The following impediments to fair housing were identified through the Metropolitan Milwaukee Fair Housing Council's research and interviews in 2012: 1) limited fair housing ordinance; 2) need for accurate assessment of affordable and accessible housing supply, and 3) inadequate affordable housing supply relative to residents' income.

### **Impediment #1: Limited Fair Housing Ordinance**

Effective September 2013, the City of Appleton's Fair Housing Ordinance was updated to improve the following aspects:

- 1) *Lacks Clarification of Persons Protected Under the Ordinance.* The ordinance was updated identifying the protected classes to include age, color, family status, gender identity and/or gender expression, marital status, national origin/ancestry, race, religion, color, persons with disability, sex, sexual orientation, source of lawful income, and victims of domestic violence, sexual assault, or stalking.
- 2) *Has Limited Protection for Persons with Disabilities.* The ordinance was updated to permit persons with disabilities to make reasonable modifications to existing housing, allow for the provision of reasonable accommodations in rules, policies, practices and services to permit persons with disabilities full use and enjoyment of housing, provide protection for assistance animals, require that housing be designed and constructed to ensure accessibility for persons with disabilities, and define disability.
- 3) *Lacks Protections for Gender Identity and Gender Expression.* The ordinance was updated to include prohibition of discrimination based on gender identity and gender expression.
- 4) *Penalties for Violations of the Law.* The City of Appleton revised the penalties for illegal housing discrimination to be analogous to the forfeitures enforced under federal law (first offense not exceeding \$10,000; second offense within five-year period not exceeding \$25,000; and not exceeding \$50,000 for a third).
- 5) *Issuance of Fines Requires Act of Discrimination be Willful.* The ordinance was updated to remove the term "willfully," removing the burden of proof from the victim for the purposes of issuing fines under the fair housing laws.
- 6) *Scope of Civil Action is Unclear.* The ordinance was updated to clarify the scope of a civil action to include holding hearings, subpoenaing witnesses, taking testimony, and conducting investigations.

### **Impediment #2: Need for Accurate Assessment of Affordable and Accessible Housing Supply**

The City of Appleton Assessor's Office now assesses and maintains data that quantifies the supply of affordable housing.

### **Impediment #3: Inadequate Affordable Housing Supply Relative to Residents' Income**

Data gathered during a local initiative, known as Project RUSH, shows a significant mismatch in the Appleton community in the availability of affordable housing and the ability of individuals and families to pay for such housing. As such, agencies throughout the community have collaborated to create additional housing options to close this gap.

For example, in January 2017, there was a rise in the average home cost in the Appleton area, therefore making it difficult for the low- to moderate-income population to compete in the housing market.

## **MONITORING (CR-40)**

Appleton Housing Authority made it possible, through their affordable housing and homeownership assistance program, for first-time homebuyers to purchase homes in the competitive market. Also, the Fox Cities Housing Coalition re-evaluated and re-allocated all of the transitional housing stock to permanent supportive housing options in an effort to get individuals housed quickly and affordably. Other programs and projects in progress for the upcoming year include the addition of a Homeless Diversion Program; the addition of a housing navigator as proposed through the Project RUSH steering committee; and the creation of a Day Resource Center.

***Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements***

The first step in assuring that CDBG funds are utilized efficiently and effectively, meeting the objectives and goals set forth in the 2015-2019 Consolidated Plan, is completed during the annual CDBG application process.

In 2017, applications were received and initially reviewed by the City of Appleton's Community and Economic Development Department staff. A CDBG Advisory Board, comprised of City Council, City Committee, and community agency members with experience in grant awarding and identifying community needs, was then responsible for reviewing the eligible applications and determining which proposed projects met the greatest needs of the community. These recommendations were reviewed and approved first by the City of Appleton's Community and Economic Development Committee and then by City Council.

Throughout the process, the primary components of the applications that were evaluated were:

1. Which products/services were the best use of funds while addressing the highest priority needs of the community?
2. Which proposed projects were requesting a one-time use of CDBG dollars?

The "return on investment" was highly scrutinized throughout the entire allocation process. Meeting high priority needs and objectives, as identified in the 2015-2019 Consolidated Plan, was strongly emphasized to both applicants and reviewers, magnifying the importance the City of Appleton places on community-identified needs and priorities.

Throughout the 2017 CDBG program year, sub recipients submitted accomplishment reports and payment requests, which were used by City of Appleton staff to track activity accomplishments and progress, expenditures, and record keeping. Sufficient documentation, reasonable expenses, as well as qualifying activities were evaluated. Failure to submit, or identified discrepancies in any of these areas, triggered additional review and some level of communication with the sub recipient. These reviews, and the overall progress of the agency and/or project, was considered if they submitted an application for the 2018 program year.

***Citizen Participation Plan 91.105(d); 91.115(d)***

***Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.***

Citizens were provided with two separate opportunities for public comment: a 30-day public comment period and a public hearing at a regularly scheduled meeting of the City of Appleton's Community and Economic Development Committee. The public comment period was open May 7, 2018, through June 6, 2018, and the public hearing was held at the June 13, 2018, meeting of the Community and Economic Development Committee. Comments and views of citizens were taken into consideration and included within the CAPER, as appropriate.

## **CDBG (CR-45)**

***Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.***

There were no changes in program objectives during the 2017 program year, and the City of Appleton does not anticipate making any changes to the programming.

***Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?***

No

## **HOME/ADDI**

The City of Appleton did not receive any HOME/ADDI funds during the 2017 program year.

## **HOPWA**

The City of Appleton did not receive any HOPWA funds during the 2017 program year.



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

## MEMORANDUM

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TO: Community and Economic Development Committee

FROM: Matt Rehbein, Economic Development Specialist

DATE: June 11, 2018

RE: Request to Waive Repurchase Rights for Lot 3 of Plat 1 in the Northeast Business Park

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The City has received a request to waive their repurchase rights per Section XII of the Deed Restrictions and Covenants (attached) for the above-mentioned parcel to allow for the transfer from Chad Cassiani to KOM ESOP, LLC (accepted offer to purchase attached). The purchase price is \$150,000.00, which is \$104,166.67 per acre based on the 1.44 acre parcel size. City staff has been in contact with the prospective buyer who intends to construct an office building(s) on the property.

Lots 3 and 4 were originally sold by the City on February 22, 2001 to Robert Niebauer of Professional Realty Development Corporation for \$98,700. Subsequently, Lots 3 and 4 were sold to Chad Cassiani in October 2006. Based on the transfer fee indicated on the Deed, the sale price was approximately \$164,000. Both Lots 3 and 4 are currently vacant.

### Staff Recommendation:

The Community and Economic Development Committee waive the City's Repurchase Rights for Lot 3, Plat 1, in the Northeast Business Park, allowing the transfer from Chad Cassiani to KOM ESOP, LLC. This waiver of repurchase rights is not transferable, survivable, or assignable. The City's Repurchase Rights would remain on this property.

## Brenda Broeske

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**From:** Matthew Rehbein  
**Sent:** Wednesday, June 6, 2018 1:31 PM  
**To:** Brenda Broeske  
**Subject:** FW: Parcel 31-1-6510-3 Northeast Business Park

For attachment to the associated CEDC Action item.

**From:** Chad Cassiani [mailto:chad@cassianilaw.com]  
**Sent:** Wednesday, June 6, 2018 12:45 PM  
**To:** Matthew Rehbein <Matthew.Rehbein@Appleton.org>  
**Subject:** RE: Parcel 31-1-6510-3 Northeast Business Park

Matt, I will send you a copy of the offer to purchase when I get a copy from the Realtor. It appears I do not have access to the online system where we did the Electronic signatures.

In the mean time I believe the following is the information you also requested of me.

We are selling Lot #3, Parcel #311651003. The closing date is scheduled for June 20<sup>th</sup>, 2018. The buyers originally requested a July 20<sup>th</sup> closing date, but I needed the funds due to my purchase of another commercial building in town. In addition, the buyers still are doing their due diligence on the property, so it is not a definite sale yet. I believe they are needing approval from the City. However, I am asking the city to waive their 60-day notice and their right to repurchase said lot so that in the event the sale does happen we can execute it as stated in the Offer in an expeditious manner.

The sales price will be \$150,000 less fees and commissions, I was asking \$200,000. I would not be selling except for the fact that I just purchased the Coldwell Banker Sales office located at 5107 N. Ballard Road. As I indicated on the telephone this is not the price I wanted as I had to place a lien on the property so that I could get funds for the down payment and renovations on the Ballard Road Property.

Ironically, everything is happening at the same time, it is moving rather quickly on all fronts which is why I am asking the city for an Allowance to the 60 day notice and to remove the deed restriction. The benefit to the city in granting this Allowance and Waiver is they will be getting two commercial buildings on the tax roll.

If you need any more information please do not hesitate to contact me.



Chad V. Cassiani  
Attorney at Law, MAcc-Taxation, MBA  
Telephone: 920-380-4144

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**From:** Matthew Rehbein <[Matthew.Rehbein@Appleton.org](mailto:Matthew.Rehbein@Appleton.org)>

**Sent:** Wednesday, June 6, 2018 9:22 AM

**To:** Chad Cassiani <[chad@cassianilaw.com](mailto:chad@cassianilaw.com)>

**Subject:** Parcel 31-1-6510-3 Northeast Business Park

Good Morning Chad,

Thank you for the prompt callback on the above mentioned lot. As discussed, I have attached copy of the Council action approved December 3, 2008 along with the "Section 12" referenced therein. Please provide copy of the accepted offer and a letter (or e-mail) requesting a waiver to allow sale and I will be able to pull all necessary information for my writeup. If I have the information by Noon Thursday June 7, I will be able to get it on the Community and Economic Development Agenda for the June 13 meeting, which would go to Council for final approval on June 20. If you have any questions or need more information from me, please call or reply. Thank you.

Matt

## **Matt Rehbein**

Economic Development Specialist



**City of Appleton**

**Community & Economic Development**

100 N. Appleton Street

Appleton, WI 54911

(920) 832-6463 Direct Phone

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## ACTION ITEMS

*Council Approved Dec. 3, 2008*

### **Request – Waive Protective Covenants – Lots 1-6, Northeast Business Park Plat #1**

J. Van Dyke explained the Gasman's, who currently own two (2) lots in the Business Park, are interested in building a restaurant on one lot and their office on the second. Currently, industrial zoning does not allow the building of a restaurant and they would like a waiver of the Business Park Covenants and a rezoning of the property to commercial to allow the restaurant.

Community Development staff believes this to be a reasonable request, as Badger Sports Park, which is zoned commercial and USA Sports Complex are located across the street from the lot in question. The main concern of staff is to protect the integrity of the industrial park, which they feel can be accomplished by placing a Planned Development Overlay on the C2 zoning. The overlay would incorporate the many requirements of the Protective Covenants such as building materials, signage, etc.

J. Van Dyke also explained that, at the time the attached memorandum was written, staff believed a complete waiver would be the best option, but City Assessor Brosman recommended the City retain its repurchasing rights. The rezoning to commercial would increase the value of the property significantly and felt the Gasman's should not profit if they didn't build the restaurant and decided to sell the land to another party.

J. Clemons offered support for this request, using the example of Beefeaters Restaurant, which lies in the industrial park and seems to fit into the overall landscape quite well.

J. Van Dyke explained another change that would be included in the Planned Development Overlay, which would be a stipulation the property owners can build no more than two restaurants on the four vacant lots.

P. Stueck asked if CDC can vote today to approve this with retaining the repurchasing right. J. Van Dyke responded that could be done.

G. Holzknicht moved, seconded by J. Hill that the request from Rick and Kerry Gasman for a waiver of the Business Park Protective Covenants, **except for Section 12 Repurchase Rights**, for Lots 1-6 Northeast Business Park Plat #1, BE APPROVED, subject to the rezoning of this area to PD/C-2. (5-0)

### **CDBG Allocation Recommendations**

J. Clemons reminded CDBG applicants in attendance the City admires all of their work, and if there was enough money, the City would fund each one of their organizations. Clemons then asked members of the audience if they would like to speak specifically to the existing staff recommendations.

#### Christine Cheevers, Executive Director – Fox Valley Literacy Coalition

Ms. Cheevers asked the Committee to consider her organization's request for funding. While relatively new to her position as Executive Director, she better understands why the City has funded the Literacy Coalition for the last 12 years.

#### Michael Potter, 520 West Atlantic Street

Mr. Potter asked the Committee to please consider funding the request for the Housing Partnership of the Fox Cities based on the number of years they have been working with the City and the good things they have done to rehabilitate buildings and homes for low-income housing.



#### ***XI. Approval of Plans:***

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

#### ***XII. Repurchase Rights:***

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

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

#### ***XIII. Subdivision of Lots:***

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

#### ***XIV. Waiver of Notice:***

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

#### ***XV. Variances:***

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

#### ***XVI. Right to Enter***

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

#### ***XVII. Enforcement:***

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

Approved by the Wisconsin Department of Regulation and Licensing  
03-1-11 (Optional Use Date) 07-1-11 (Mandatory Use Date)

Keller Williams Realty-Fox Cities  
Page 1 of 10, WB-13

**WB-13 VACANT LAND OFFER TO PURCHASE**

1 **LICENSEE DRAFTING THIS OFFER ON** 04/13/2018 **[DATE] IS (AGENT OF BUYER)**  
2 **(AGENT OF SELLER/LISTING BROKER) (AGENT OF BUYER AND SELLER)** **STRIKE THOSE NOT APPLICABLE**

3 **GENERAL PROVISIONS** The Buyer, KOM ESOP, LLC

4 \_\_\_\_\_, offers to purchase the Property  
5 known as [Street Address] 3601 E Evergreen Lot #3 Parcel ID 311651003

6 in the City of Appleton, County of Outagamie, Wisconsin (Insert  
7 additional description, if any, at lines 458-464 or 526-534 or attach as an addendum per line 525), on the following terms:

8 ■ **PURCHASE PRICE:** one hundred fifty thousand  
9 \_\_\_\_\_ Dollars (\$ 150,000 ).

10 ■ **EARNEST MONEY** of \$ 0 accompanies this Offer and earnest money of \$ 500  
11 will be mailed, or commercially or personally delivered within 5 days of acceptance to listing broker or  
12 **Transfer Title 517 N. Westhill Blvd, Appleton, WI 54914**

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

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

16 \_\_\_\_\_

17 \_\_\_\_\_

18 ■ **NOT INCLUDED IN PURCHASE PRICE:** N/A

19 \_\_\_\_\_

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

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

24 ■ **ZONING:** Seller represents that the Property is zoned: Commercial

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

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

29 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on  
30 or before 04/26/2018. Seller may keep the Property on the

31 market and accept secondary offers after binding acceptance of this Offer.

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

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

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

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

40 Seller's recipient for delivery (optional): Chad Cassiani

41 Buyer's recipient for delivery (optional): Cheryl Quimby LLC and cc:Melissa Devantier

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

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

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

49 Delivery address for Seller: \_\_\_\_\_

50 Delivery address for Buyer: \_\_\_\_\_

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

55 E-Mail address for Seller (optional): chad@cassiani.com

56 E-Mail address for Buyer (optional): cherylquimby@kw.com

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

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

**PROPERTY CONDITION REPRESENTATIONS** Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge of Conditions Affecting the Property or Transaction (lines 163-187 and 246-278) other than those identified in the Seller's disclosure report dated 04/20/2018, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference COMPLETE DATE OR STRIKE AS APPLICABLE and \_\_\_\_\_

INSERT CONDITIONS NOT ALREADY INCLUDED IN THE DISCLOSURE REPORT

**CLOSING** This transaction is to be closed no later than 06/26/2018 at the place selected by Seller, unless otherwise agreed by the Parties in writing.

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

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

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

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

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

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

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

☐

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

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

**LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) STRIKE ONE lease(s), if any, are \_\_\_\_\_

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

☒ **GOVERNMENT PROGRAMS:** Seller shall deliver to Buyer, within 15 days of acceptance of this Offer, a list of all federal, state, county, and local conservation, farmland, environmental, or other land use programs, agreements, restrictions, or conservation easements, which apply to any part of the Property (e.g., farmland preservation agreements, farmland preservation or exclusive agricultural zoning, use value assessments, Forest Crop, Managed Forest, Conservation Reserve Program, Wetland mitigation, shoreland zoning mitigation plan or comparable programs), along with disclosure of any penalties, fees, withdrawal charges, or payback obligations pending, or currently deferred, if any. This contingency will be deemed satisfied unless Buyer delivers to Seller, within seven (7) days of Buyer's Actual Receipt of said list and disclosure, or the deadline for delivery, whichever is earlier, a notice terminating this Offer based upon the use restrictions, program requirements, and/or amount of any penalty, fee, charge, or payback obligation.

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

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



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

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

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

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

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

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

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

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

## **DEFINITIONS**

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

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

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

**(Definitions Continued on page 5)**

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

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

**CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 201 or 202.**

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

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

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

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

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

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

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

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

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

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

245 **DEFINITIONS CONTINUED FROM PAGE 3**

- 246 n. Defects in any septic system or other sanitary disposal system on the Property or out-of-service septic systems not  
247 closed/abandoned according to applicable regulations.
- 248 o. Subsoil conditions which would significantly increase the cost of development including, but not limited to, subsurface  
249 foundations or waste material; organic or non-organic fill; dumpsites where pesticides, herbicides, fertilizer or other toxic  
250 or hazardous materials or containers for these materials were disposed of in violation of manufacturer's or government  
251 guidelines or other laws regulating said disposal; high groundwater; adverse soil conditions (e.g. low load bearing  
252 capacity, earth or soil movement, slides) or excessive rocks or rock formations.
- 253 p. Brownfields (abandoned, idled or under-used land which may be subject to environmental contamination) or other  
254 contaminated land, or soils contamination remediated under PECFA, the Department of Natural Resources (DNR)  
255 Remediation and Redevelopment Program, the Agricultural Chemical Cleanup Program or other similar program.
- 256 q. Lack of legal vehicular access to the Property from public roads.
- 257 r. Homeowners' associations, common areas shared or co-owned with others, zoning violations or nonconforming uses,  
258 conservation easements, restrictive covenants, rights-of-way, easements, easement maintenance agreements, or use of  
259 a part of Property by non-owners, other than recorded utility easements.
- 260 s. Special purpose district, such as a drainage district, lake district, sanitary district or sewer district, that has the authority to  
261 impose assessments against the real property located within the district.
- 262 t. Federal, state or local regulations requiring repairs, alterations or corrections of an existing condition.
- 263 u. Property tax increases, other than normal annual increases; completed or pending property tax reassessment of the  
264 Property, or proposed or pending special assessments.
- 265 v. Burial sites, archeological artifacts, mineral rights, orchards or endangered species.
- 266 w. Flooding, standing water, drainage problems or other water problems on or affecting the Property.
- 267 x. Material damage from fire, wind, floods, earthquake, expansive soils, erosion or landslides.
- 268 y. Significant odor, noise, water intrusion or other irritants emanating from neighboring property.
- 269 z. Substantial crop damage from disease, insects, soil contamination, wildlife or other causes; diseased trees; or substantial  
270 injuries or disease in livestock on the Property or neighboring properties.
- 271 aa. Existing or abandoned manure storage facilities on the Property.
- 272 bb. Impact fees, or other conditions or occurrences that would significantly increase development costs or reduce the value of  
273 the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.
- 274 cc. The Property is subject to a mitigation plan required by DNR rules related to county shoreland zoning ordinances that  
275 obligates the owner to establish or maintain certain measures related to shoreland conditions, enforceable by the county  
276 (see lines 139-145).
- 277 dd. All or part of the land has been assessed as agricultural land, the owner has been assessed a use-value conversion  
278 charge or the payment of a use-value conversion charge has been deferred.

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

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

290 ■ **FIXTURE:** A "Fixture" is an item of property which is physically attached to or so closely associated with land so as to be  
291 treated as part of the real estate, including, without limitation, physically attached items not easily removable without damage  
292 to the premises, items specifically adapted to the premises, and items customarily treated as fixtures, including, but not limited  
293 to, all: perennial crops; garden bulbs; plants; shrubs and trees and fences; storage buildings on permanent foundations and  
294 docks/piers on permanent foundations.

295 **CAUTION: Exclude any Fixtures to be retained by Seller or which are rented on lines 18-19.**

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

297 **PROPERTY DEVELOPMENT WARNING** If Buyer contemplates developing Property for a use other than the current use,  
298 there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and  
299 zoning ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or  
300 uses and therefore should be reviewed. Building permits, zoning variances, Architectural Control Committee approvals,  
301 estimates for utility hook-up expenses, special assessments, changes for installation of roads or utilities, environmental audits,  
302 subsoil tests, or other development related fees may need to be obtained or verified in order to determine the feasibility of  
303 development of, or a particular use for, a property. Optional contingencies which allow Buyer to investigate certain of these  
304 issues can be found at lines 306-350 and Buyer may add contingencies as needed in addenda (see line 525). Buyer should  
305 review any plans for development or use changes to determine what issues should be addressed in these contingencies.



☒ **PROPOSED USE CONTINGENCIES:** Buyer is purchasing the Property for the purpose of: Building a 12,000 square foot single or double story office building with at least 40 stalls for parking.

[insert proposed use and type and size of building, if applicable; e.g. three bedroom single family home]. The optional provisions checked on lines 314-345 shall be deemed satisfied unless Buyer, within 60 days of acceptance, delivers written notice to Seller specifying those items which cannot be satisfied and written evidence substantiating why each specific item included in Buyer's notice cannot be satisfied. Upon delivery of Buyer's notice, this Offer shall be null and void. Seller agrees to cooperate with Buyer as necessary to satisfy the contingencies checked at lines 314-350.

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

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

☐ **PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM (POWTS) SUITABILITY:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, written evidence from a certified soils tester that (a) the soils at the Property locations selected by Buyer, and (b) all other conditions that must be approved, meet the legal requirements in effect on the date of this Offer to obtain a permit for a POWTS for use of the Property as stated on lines 306-308. The POWTS (septic system) allowed by the written evidence must be one of the following POWTS that is approved by the State for use with the type of property identified at lines 306-308 CHECK ALL THAT APPLY: ☐ conventional in-ground; ☐ mound; ☐ at grade; ☐ in-ground pressure distribution; ☐ holding tank; ☐ other: \_\_\_\_\_.

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

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

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

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

☒ **LAND USE APPROVAL:** This Offer is contingent upon Buyer obtaining, at (Buyer's) (Seller's) STRIKE ONE ("Buyer's" if neither is stricken) expense, a ☐ rezoning; ☐ conditional use permit; ☐ license; ☐ variance; ☒ building permit; ☐ occupancy permit; ☐ other \_\_\_\_\_ CHECK ALL THAT APPLY, and delivering written notice to Seller if the item cannot be obtained, all within 90 days of acceptance for the Property for its proposed use described at lines 306-308.

☐ **MAP OF THE PROPERTY:** This Offer is contingent upon (Buyer obtaining) (Seller providing) STRIKE ONE ("Seller providing" if neither is stricken) a Map of the Property dated subsequent to the date of acceptance of this Offer prepared by a registered land surveyor, within \_\_\_\_\_ days of acceptance, at (Buyer's) (Seller's) STRIKE ONE ("Seller's" if neither is stricken) expense. The map shall show minimum of \_\_\_\_\_ acres, maximum of \_\_\_\_\_ acres, the legal description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements, if any, and: \_\_\_\_\_.

[STRIKE AND COMPLETE AS APPLICABLE] Additional map features which may be added include, but are not limited to: staking of all corners of the Property; identifying dedicated and apparent streets; lot dimensions; total acreage or square footage; easements or rights-of-way. **CAUTION: Consider the cost and the need for map features before selecting them.**

**Also consider the time required to obtain the map when setting the deadline.** This contingency shall be deemed satisfied unless Buyer, within five days of the earlier of: (1) Buyer's receipt of the map; or (2) the deadline for delivery of said map, delivers to Seller a copy of the map and a written notice which identifies: (1) the significant encroachment; (2) information materially inconsistent with prior representations; or (3) failure to meet requirements stated within this contingency. Upon delivery of Buyer's notice, this Offer shall be null and void.

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

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

370 **EARNEST MONEY**

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

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

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

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

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

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



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

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

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

417 **TITLE EVIDENCE**

418 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed  
419 (or trustee's deed if Seller is a trust, personal representative's deed if Seller is an estate or other conveyance as  
420 provided herein), free and clear of all liens and encumbrances, except: municipal and zoning ordinances and agreements  
421 entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use  
422 restrictions and covenants, present uses of the Property in violation of the foregoing disclosed in Seller's disclosure report and  
423 in this Offer, general taxes levied in the year of closing and none other  
424 \_\_\_\_\_  
425 \_\_\_\_\_  
426 \_\_\_\_\_

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

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

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

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

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

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

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

458 **ADDITIONAL PROVISIONS/CONTINGENCIES**

459 This is a cash offer and proof of funds will be provided within 7 days of accepted offer.  
460 \_\_\_\_\_  
461 \_\_\_\_\_  
462 \_\_\_\_\_  
463 \_\_\_\_\_  
464 \_\_\_\_\_

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

468 If Buyer defaults, Seller may:

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

472 If Seller defaults, Buyer may:

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

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

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

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

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

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

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

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

Property Address: 3601 E Evergreen St, Appleton, WI 54914 Page 10 of 10, WB-13

☐ **INSPECTION CONTINGENCY:** This contingency only authorizes inspections, not testing (see lines 488-502). This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), of the Property which discloses no Defects. This Offer is further contingent upon a qualified independent inspector or independent qualified third party performing an inspection of \_\_\_\_\_

(list any Property feature(s) to be separately inspected, e.g., dumpsite, etc.) which discloses no Defects. Buyer shall order the inspection(s) and be responsible for all costs of inspection(s). Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection performed provided they occur prior to the deadline specified at line 513. Inspection(s) shall be performed by a qualified independent inspector or independent qualified third party.

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

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

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

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

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

☒ **ADDENDA:** The attached A, Land Disclosure Report is/are made part of this Offer.

**ADDITIONAL PROVISIONS/CONTINGENCIES**

In the event that the transaction fails to close based on any of identified contingencies, earnest money shall be returned to the buyer within 2 business days

This Offer was drafted by [Licensee and Firm] Cheryl Quimby LLC/Keller Williams Fox Cities on 04/13/2018

(x) Jason McGlone dotloop verified 04/25/18 9:46PM EDT 1M0I-BH2Y-L8MX-31RX  
Buyer's Signature ▲ Print Name Here ▶ Jason A. McGlone Date ▲

(x) Aaron Juckett dotloop verified 04/25/18 6:54PM EDT FOVE-041L-TV35-DE0A  
Buyer's Signature ▲ Print Name Here ▶ Aaron Juckett Date ▲

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

\_\_\_\_ Broker (By) \_\_\_\_\_

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

(x) Chad Cassiani dotloop verified 04/26/18 1:04PM EDT 93Y9-VDO0-VIRL-K98I  
Seller's Signature ▲ Print Name Here ▶ Chad B Cassiani Date ▲

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

This Offer was presented to Seller by [Licensee and Firm] \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

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

REALTORS® ASSOCIATION OF NORTHEAST WISCONSIN, INC.  
W6124 Aerotech Drive, Appleton, WI 54914

RANW A, Page 1 of 7, 2015.2

**RANW ADDENDUM A TO THE OFFER TO PURCHASE**

1 This Addendum is made part of the Offer to Purchase dated 04/13/2018 (Offer), made by the  
2 undersigned Buyer with respect to the Property at 3601 East Evergreen Drive Lot #3 parcel id:311651003  
3 Appleton, Wisconsin (Property).

4 PARAGRAPHS PRECEDED BY A BOX ( ☐ ) ARE OPTIONAL AND ARE A PART OF THIS ADDENDUM IF THE BOX IS  
5 MARKED, SUCH AS WITH AN "X".

6 ☐ **CLOSING OF THE SALE OF BUYER'S PROPERTY CONTINGENCY**

7 This Offer is contingent upon the closing of the sale of Buyer's property located at \_\_\_\_\_  
8 \_\_\_\_\_ no later than \_\_\_\_\_.

9 Buyer's property is, or shall be, within seven (7) days of acceptance of this Offer, listed for sale with \_\_\_\_\_  
10 \_\_\_\_\_ at a list price no greater than \_\_\_\_\_.

11 If the closing of the sale of Buyer's property does not occur on or before the closing date for this Offer or if an offer for Buyer's  
12 property becomes null and void or terminated for any reason, Buyer shall promptly notify Seller in writing, and either Party shall have  
13 the right to declare this Offer null and void by written notice thereof delivered to the other Party.

14 **(NOTE: Choose box at line 15 or 28 if box at line 6 is marked).**

15 ☐ **ACCEPTED OFFER TO PURCHASE ON BUYER'S PROPERTY AND NO BUMP**

16 **(NOTE: Choose box at line 17 or 18 if box at line 15 is marked)**

17 ☐ Seller acknowledges that Buyer has provided Seller a copy of the accepted offer to purchase on Buyer's property.

18 ☐ Buyer shall deliver to Seller, within three (3) days of acceptance of this Offer a copy of the accepted offer to purchase on  
19 Buyer's property.

20 **(NOTE: Choose one of the two options on line 21 or 23 if box at line 18 is marked)**

21 ☐ with written proof that all contingencies are satisfied or removed, and which has a closing date prior to the closing  
22 in this Offer.

23 ☐ which is subject to financing and \_\_\_\_\_, and which  
24 has a closing date prior to the closing in this Offer.

25 If Buyer does not make timely delivery of the accepted offer on Buyer's property that is consistent with the representation(s)  
26 above, Seller may terminate this Offer by delivering a written notice of termination to Buyer prior to **(Buyer's delivery) (Seller's**  
27 **Actual Receipt) (STRIKE ONE)** ("Buyer's delivery" if neither is stricken) of a copy of the accepted offer on Buyer's property.

28 ☐ **CONTINUED MARKETING - WITH BUMP CLAUSE**

29 If Seller accepts a bona fide secondary offer, Seller may give written notice to Buyer of such acceptance. This Offer shall be  
30 null and void and Buyer shall be deemed conclusively to have forfeited and released any interest in the Property unless Buyer,  
31 prior to such notice or within \_\_\_\_\_ hours of Buyer's Actual Receipt of such notice, delivers to Seller one of the following:

32 (1) written notice from Buyer that Buyer is waiving the Closing of the Sale of Buyer's Property Contingency and all  
33 financing contingencies in this Offer, making this a cash offer AND written verification from a financial institution or a third  
34 party in control of Buyer's funds that Buyer has sufficient funds necessary to close this transaction which are not  
35 contingent on the sale of Buyer's property, or;

36 (2) a copy of the offer to purchase on Buyer's property which has all contingencies, other than any financing  
37 contingencies, properly removed or satisfied AND written verification from a financial institution that buyer under said offer  
38 to purchase has been pre-approved for financing which then will modify this Closing of the Sale of Buyer's Property  
39 contingency making this Offer subject to the successful closing of the sale of Buyer's property described on lines 7-8  
40 above, on or before the closing date in the Offer.

41 **NOTE: A financing pre-approval is NOT considered a loan commitment.**

42 If Buyer accepts a bona fide offer for the purchase of Buyer's property prior to receiving written notice from Seller that Seller  
43 has accepted a bona fide secondary offer, Buyer shall promptly notify Seller of such acceptance. Such notification does NOT  
44 modify **lines 6-52 of this Addendum** (the Closing of the Sale of Buyer's Property Contingency).

45 Unless Seller has given Buyer notice of a bona fide secondary offer, once Buyer has an accepted offer on Buyer's property that  
46 complies with requirement (2) above, the Buyer shall promptly deliver to Seller a copy of such offer and this Closing of the Sale  
47 of Buyer's Property Contingency shall be deemed modified and subject to the closing of the sale of Buyer's property.

48 Other than the deadlines for Buyer Financing Pre-approval letter, if applicable, payment of Earnest Money and  
49 \_\_\_\_\_, all deadlines in this Offer which  
50 run from acceptance shall run from the time Buyer has complied with requirement (1) above or from the time Buyer has an  
51 accepted offer for the purchase of Buyer's property that complies with requirement (2) above.

52 **NOTE: Buyer may not unilaterally waive this contingency without compliance with requirements (1) or (2) above.**

53 ☐ **BUYER'S FINANCING PRE-APPROVAL**

54 Within seven (7) days of acceptance of this Offer, Buyer shall deliver to Seller a written verification from a financial institution or  
55 mortgage broker that Buyer has been pre-approved for financing, which may be based on the following minimum criteria:  
56 satisfactory credit history, accepted offer terms, and Buyer debt ratios. If Buyer does not make timely delivery of said pre-approval,  
57 Seller may terminate this Offer by delivering a written notice of termination to Buyer prior to Buyer's delivery of a copy of Buyer's  
58 written financing pre-approval to Seller.

59 **NOTE: Pre-approval is not considered a loan commitment.**

60 **SURVEY, LOT LINE AND BOUNDARY DISCLOSURES**

61 **CAUTION: If a parcel will be split from (an)other parcel(s) or combined with (an)other parcel(s) a Certified Survey Map or**  
62 **Subdivision Plat normally will be required. Use a separate contingency for a Certified Survey Map or a Subdivision Plat and**  
63 **allow adequate time for completing the Survey.**

64 **TITLE CAUTION:** Any survey used for the purpose of deleting the lot and boundary exception in the title policy must conform to the  
65 standards set by the title company. It is the Buyer's responsibility to have the title company clarify the necessary survey standards  
66 for deletion of the lot and boundary exceptions listed in the title commitment.

67 ☐ **MAPS AND SURVEYS CHECK ALL THAT ARE APPLICABLE**

68 **CAUTION: Consider cost and need for map features before selecting them.**

69 ☐ **PREVIOUS SURVEY MAP:** Buyer acknowledges receiving a copy of the **(Boundary) (Certified) STRIKE ONE** Survey  
70 Map prepared on \_\_\_\_\_ (Date) by \_\_\_\_\_ (Name of  
71 Surveying Company) that includes this Property and **IS PROVIDED FOR INFORMATION PURPOSES ONLY.**

72 ☐ **SUBDIVISION PLAT:** Buyer acknowledges receipt of a Subdivision Plat map that includes this Property and **IS**  
73 **PROVIDED FOR INFORMATION PURPOSES ONLY.**

74 **CAUTION: the accuracy of information contained in the above document(s) is not warranted. Lot size, location of**  
75 **boundaries, placement of improvements (if any), existence of easements, elevations, soil type(s), or other factors**  
76 **should be verified by an appropriate expert (i.e. surveyor, engineer) if material to recipient of the document(s).**

77 ☐ **BOUNDARY SURVEY MAP:** This Offer is contingent upon **(Buyer obtaining) (Seller providing) STRIKE ONE** ("Buyer  
78 obtaining" if neither is stricken) a map of the Property prepared by a registered land surveyor within \_\_\_\_\_ days of acceptance  
79 of this Offer, at **(Buyer's) (Seller's) STRIKE ONE** ("Buyer's" if neither is stricken) expense. The Boundary Survey Map must  
80 have been prepared between the acceptance date and closing date. The map shall identify the legal description of the  
81 Property, the Property's boundaries and dimensions, staking of all corners of the Property, dedicated and apparent rights of  
82 way, lot dimensions, total acreage and square footage, any improvements that affect the Property boundary, visible  
83 encroachments that affect the Property boundary, the location of buildings, if any, and also include:

- 84 ☐ easements  
85 ☐ improvements on the Property (streets, driveways, patios, decks, poles, fences, walls, etc.)  
86 ☐ such survey shall be in satisfactory form and accompanied by any required surveyor's report sufficient to enable  
87 Buyer to obtain removal of the standard survey exception on the title policy

88 ☐  
89 This contingency shall be deemed satisfied unless Buyer, within five (5) days of Actual Receipt of the Survey, delivers to  
90 Seller a written notice listing Buyer's specific objections to the terms and conditions of the survey. Upon Actual Receipt of said  
91 Notice, Seller shall have ten (10) days to cure said objections and the time for closing shall be extended accordingly. If Seller  
92 is unable to timely cure Buyer's objections, Buyer may terminate this Offer by delivering a written notice of termination to  
93 Seller.

94 ☐ **WAIVER OF SURVEY CONTINGENCY**

95 Buyer acknowledges there may be benefits of surveying the Property. Buyer hereby voluntarily waives the inclusion of a property  
96 survey contingency in this Offer.

97 **INSURABILITY OF PROPERTY**

98 **CAUTION: For Flood Plain Insurance cost and insurability see lines 135-147** Buyer is aware that the availability and cost of  
99 property and/or homeowners insurance may be determined by numerous factors, including, but not limited to, buyer's credit history  
100 (credit score), buyer's insurance claims history, condition of property, the type of electrical service on a property, and the history of  
101 prior claims on a property.

102 **NOTE: The Parties acknowledge that real estate licensees are not experts with respect to insurance and are advised to**  
103 **contact their insurance agent as to requirements for obtaining insurance.**

104 ☒ Within seven (7) days of acceptance of this Offer, Buyer may terminate this Offer by delivering to Seller written notice from a  
105 qualified third party determining the Property is uninsurable. Buyer to pay any costs associated with this determination unless  
106 otherwise agreed in writing.

107 ☐ **WAIVER OF CONTINGENCY TO INVESTIGATE THE INSURABILITY OF THE PROPERTY**

108 Buyer acknowledges there may be benefits of investigating the insurability of the Property as defined in the Offer. Buyer hereby  
109 voluntarily waives the inclusion of any provision for investigating the insurability of the Property in this offer.



110 **ZONING AND BUILDING RESTRICTIONS, COMPREHENSIVE PLANS**

111 Zoning and building restrictions affect the use of the Property. Annexations and comprehensive plans may affect the future use or  
112 value of the Property by influencing future development (residential, commercial, transit systems, storm water management system,  
113 etc.) in the county and municipality. Buyer is advised that the municipality in which the Property is located likely has existing zoning  
114 and building restrictions and may have a Comprehensive Plan.

115 **NON-CONFORMING PROPERTY, VARIANCES AND CONDITIONAL USE PERMITS**

116 Buyer is aware that some properties are considered legal non-conforming properties which no longer conform to current zoning due  
117 to changing building regulations, restrictions, and lot size requirements, or due to variances. Buyer also is aware that some  
118 properties are subject to Conditional Use Permits (CUPs) that may contain special restrictions regarding use of the property.  
119 Restrictions on non-conforming uses or structures and CUP restrictions may affect Buyer's ability to build, rebuild, remodel, replace,  
120 enlarge or use an existing structure (consider special hazard insurance if Property is non-conforming). Buyer is encouraged to  
121 contact the applicable municipal authorities regarding existing zoning and building restrictions, variance or CUP restrictions, potential  
122 future annexations and possible comprehensive plans, if these issues are material to Buyer's decision to purchase.

123 ☐ Within seven (7) days of acceptance of this Offer, Buyer may terminate this Offer by delivering to Seller written notice which  
124 includes a written determination from an applicable municipal authority that the Property use or structure is non-conforming or the  
125 Property is subject to a variance or CUP, and that as a result the Property owner's ability to build, rebuild, remodel, replace, enlarge  
126 or use the Property is materially restricted. Any costs associated with this determination to be paid by Buyer, unless otherwise  
127 agreed in writing.

128 ☐ **WAIVER OF CONTINGENCY TO INVESTIGATE NON-CONFORMING PROPERTY, VARIANCE AND CONDITIONAL USE**  
129 **PERMIT RESTRICTIONS**

130 Buyer acknowledges there may be benefits of investigating whether the Property use, lot size, lot configuration, or structure(s) fails to  
131 conform to existing regulations and zoning ordinances, whether the Property is subject to a variance or CUP, and whether the  
132 Property owner's ability to build, rebuild, remodel, replace, enlarge or use an existing structure is restricted as a result thereof. Buyer  
133 hereby voluntarily waives the inclusion in this Offer of any provision to investigate zoning, variance and CUP restrictions on the  
134 Property.

135 **FLOODPLAIN / WETLANDS**

136 **CAUTION:** Buyer is aware the floodplain and wetland areas are difficult to identify, even when using available floodplain and wetland  
137 maps; that some wetlands that may affect Buyer's use of the Property are not necessarily included in wetland maps; and that  
138 floodplain maps may change frequently and should not necessarily be assumed to be accurate. Buyer is encouraged to consult with  
139 appropriate government officials to obtain specific elevations to confirm inclusion in or exclusion from a floodplain if such information  
140 is material to Buyer. Buyer may wish to contact the National Flood Insurance Program (NFIP) for information about flood insurance  
141 as it relates to this Property (<https://www.floodsmart.gov/floodsmart/>). Also see (<http://www.fema.gov>).

142 **Buyer should not assume that Buyer's premiums for flood insurance will be comparable to those charged to Seller.**

143 ☐ Within seven (7) days of acceptance of this Offer, Buyer may terminate this Offer, by delivering to Seller a written notice  
144 accompanied by a determination from a qualified third party (including a flood certification company working for Buyer's lender or a  
145 flood insurance premium quote from a licensed insurance agent) that has determined the Property improvements are located in a  
146 100 year floodplain or wetland area, or the cost of an annual flood insurance policy will be excessive. Any costs for floodplain or  
147 wetland evaluation and / or costs to obtain a quote for flood insurance are to be paid by Buyer, unless otherwise agreed to in writing.

148 ☐ **WAIVER OF CONTINGENCY TO INVESTIGATE FLOOD INSURANCE COSTS OR WHETHER THE PROPERTY IS IN A**  
149 **FLOODPLAIN OR A WETLAND**

150 Buyer acknowledges there may be benefits of investigating whether a property is in a floodplain or wetland and what the cost of flood  
151 insurance may be for a property. Buyer hereby voluntarily waives the inclusion of any provision in this Offer to investigate whether  
152 the Property is in a floodplain or wetland, or to determine what the cost may be to obtain flood insurance for the Property.

153 **LICENSEE DISCLOSURE OF PERSONAL INTEREST (NOT TO BE USED FOR RESPA DISCLOSURE PURPOSES)**

154 ☐ **DISCLOSURE OF LICENSURE:** The parties are aware that (Buyer) (Seller) **STRIKE ONE** is a real estate licensee with \_\_\_\_\_  
155 \_\_\_\_\_ and is acting as a principal in  
156 this transaction with the consent of all parties.

157 ☐ **LICENSEE RELATED TO BUYER/SELLER:** Licensee, \_\_\_\_\_ (Name), is a  
158 relative of (Buyer) (Seller) **STRIKE AS APPLICABLE** and is acting as a real estate agent in this transaction on behalf of an  
159 immediate family member with the consent of all parties.

160 ☐ **LICENSEE INTEREST IN BUYER/SELLER ENTITY.** Licensee, \_\_\_\_\_ (Name)  
161 has an interest in the (Buyer) (Seller) **STRIKE ONE** entity (state name of entity, e.g. name of LLC, partnership, corporation, etc.)  
162 \_\_\_\_\_, and is acting as a real  
163 estate agent on behalf of this entity with the consent of all parties.

164 **BUYER'S TITLE**

165 Buyer is advised to promptly consult legal counsel regarding how Buyer is to take title to the Property. Wisconsin law prohibits real  
166 estate licensees from advising buyers how title should be taken.

167 **SHORELAND ZONING AND PIER REGULATIONS**

168 All counties in Wisconsin (except Milwaukee County) are required to enact shoreland zoning ordinances that meet or exceed the  
169 minimum requirements established by the Wisconsin Department of Natural Resources (DNR). Such ordinances generally apply to  
170 unincorporated land that is within 1,000 feet of the ordinary high water mark of a lake, pond, or flowage; or within 300 feet of the  
171 ordinary high water of a river or stream or to the landward side of the floodplain, whichever distance is greater, and may restrict the  
172 use and future uses and improvements to a property. Some property improvements and modifications may require a mitigation plan  
173 approved by the county and recorded with the register of deeds. Buyer must comply with any existing mitigation plan.

174 State law and local ordinances regulate the size, placement, and design of piers (e.g. docks) and boat slips. A permit may be  
175 required by the DNR to install a new pier, depending upon the size and location of the pier. Unless a pier interferes with the riparian  
176 rights of other riparian owners or the owner of the pier was notified by the DNR before April 17, 2012, that the pier is detrimental to  
177 the public interest, most piers installed prior to April 17, 2012, are grandfathered. Wis. Stat. § 30.12(1K)(b).

178 Buyer acknowledges that it is solely the Buyer's responsibility to determine whether any current or proposed future shoreland zoning  
179 or pier regulations are consistent with Buyer's intended use of the property. Buyer is encouraged to consult with an attorney to assist  
180 in making such determination. For more information Buyer should contact the county zoning office or visit <http://www.dnr.wi.gov>.

181 ☐ Within \_\_\_\_\_ days of acceptance of this Offer, Buyer may terminate this Offer by delivering to Seller written notice specifying  
182 the uses and/or improvements that will not be permitted under the current or proposed future regulations and to which Buyer objects.  
183 Any costs for investigation of shoreland zoning and pier regulations and ordinances are to be paid by Buyer, unless otherwise  
184 agreed to in writing.

185 ☒ **WAIVER OF CONTINGENCY TO INVESTIGATE SHORELAND ZONING AND PIER REGULATIONS**

186 Buyer acknowledges there may be benefits of investigating how shoreland zoning and pier regulations may affect the Property.  
187 Buyer hereby voluntarily waives the inclusion in this Offer of any provision to investigate how shoreland zoning and pier regulations  
188 may affect the Property.

189 ☐ **BASEMENT FUEL OIL TANKS CURRENTLY NOT IN USE**

190 The Buyer and Seller acknowledge that, as of the acceptance date of this Offer, there is an aboveground or basement fuel oil tank  
191 on the Property that is not currently being used and:

192 ☐ Buyer shall assume all responsibility, including the cost for the maintenance or removal of this tank after closing.

193 ☐ Seller, at Seller's expense, will have a qualified third party contractor remove the tank prior to closing and  
194 provide written confirmation of the tank removal (e.g., paid invoice) no later than closing.

195 **CAUTION: Lines 189-195 do not apply to residential buildings with more than two dwelling units.**

196 ☐ **WAIVER OF HOME INSPECTION CONTINGENCY**

197 Buyer acknowledges there may be benefits of a home inspection as defined in the Offer, and hereby voluntarily waives the  
198 inclusion of a home inspection of the Property in this Offer.

199 **MUNICIPAL REPORT/CODE COMPLIANCE**

200 Seller agrees to provide Buyer, and Buyer's lender's closing agent, if applicable, with a written statement verifying the status of real  
201 estate taxes, current or planned special assessments, and other municipal charges affecting the Property, if such a statement is  
202 available from the municipality in which the Property is located. This statement shall be provided prior to closing, at Seller's expense.  
203 Seller also agrees, at Seller's expense, to provide at or before closing all required municipal Certificates of Compliance, Occupancy  
204 Permits, and any other documents/approvals required at the time of sale by applicable municipal code(s) including, but not limited to,  
205 documentation of compliance with Clear Water, Back Flow Protection, Cross-Connection Examinations, and Hard Surface Driveway  
206 Ordinance requirements.

207 **NOTE: This paragraph will not apply to private wells, private well water or private onsite wastewater treatment systems**  
208 **(POWTS), also known as a private sanitary system, that may be addressed in another part of the Offer.**

209 ☐ **REPAIRS REQUIRED BY LENDER**

210 If, as a condition of the mortgage loan commitment, the Buyer's lender requires repairs other than repairs to which Seller has  
211 previously agreed:

212 ☐ (Buyer) (Seller) **STRIKE ONE** shall be responsible for such repairs not exceeding \$ \_\_\_\_\_ .

213 ☐ (Buyer) (Seller) **STRIKE ONE** shall be responsible for the first \$ \_\_\_\_\_ of repair expenses  
214 and the (Buyer) (Seller) **STRIKE ONE** shall be responsible for the next \$ \_\_\_\_\_ of repair expenses.

215 ☐ The Buyer and Seller shall be equally responsible for the total cost of repairs, not to exceed \$ \_\_\_\_\_ in total.

216 ☐ \_\_\_\_\_  
217 If total repair estimate exceeds the amount specified, the Party(ies) responsible for the repair expenses may terminate this Offer by  
218 delivering written notice of the total repair estimate to the other Party, unless the other Party agrees to pay for the excess amount by  
219 delivering a written notice to the Party responsible for repair expenses.

**TESTING**

Unless otherwise specified, testing (including testing for Hazardous Substances, see lines 223-230) is prohibited without a testing contingency.

**HAZARDOUS SUBSTANCES**

The parties are aware that the news media and other public information sources indicate that lead, arsenic, radium, solvents, pesticides, radon gas, asbestos, lead-based paint, mold and other toxic substances and chemicals within a structure, in soils, or in public and private drinking water (see: <http://www.dnr.wi.gov>), can cause serious health hazards.

Seller represents that, to the best of Seller's knowledge, the Property does not contain any condition constituting a significant health hazard, unless otherwise indicated on Seller's Real Estate Condition Report or other written disclosures provided to Buyer. Buyer is encouraged to include in Buyer's Offer inspection and testing contingencies with respect to these substances and to consult with the appropriate experts if such condition(s) are material to Buyer.

☐ **TESTING CONTINGENCY**

This offer is contingent upon **(Buyer obtaining) (Seller providing) [STRIKE ONE]** ("Buyer obtaining" if neither is stricken) a current written report from a qualified third party documenting the results of testing conducted pursuant to applicable government or industry protocols and standards, and which disclose(s) no unsafe levels of [indicate substances or compounds to be tested]: \_\_\_\_\_

within \_\_\_\_\_ days of acceptance, at **(Buyer's) (Seller's) [STRIKE ONE]** ("Buyer's" if neither is stricken) expense.

This Testing Contingency shall be deemed satisfied unless Buyer, within five (5) days of the deadline for obtaining said reports, delivers to Seller a copy of the written testing report(s) and a written notice listing the Defect(s) identified in such report(s) to which Buyer objects (Notice of Defects).

**RIGHT TO CURE: Seller (shall) (shall not) [STRIKE ONE]** have the right to cure (Seller "shall" if neither is stricken). If Seller has right to cure, Seller may satisfy this contingency by: (1) delivering written notice to Buyer within ten (10) days of Buyer's delivery of the Notice of Defects stating Seller's election to cure Defects; (2) curing the Defects in a good and workmanlike manner; and (3) delivering to Buyer a written report detailing the work done within three (3) days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the Notice of Defects and written inspection report(s) and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: (a) Seller delivers written notice that Seller will not cure or (b) Seller does not timely deliver the written notice of election to cure. A Defect is defined as per the Offer and does not include structural, mechanical or other conditions the nature and extent of which Buyer had actual knowledge or written notice before signing the Offer.

☐ **RADON TESTING CONTINGENCY**

**CAUTION: Only check one of the boxes** at line 254 or line 269; do **NOT** select both.

This Offer is contingent upon Buyer, at Buyer's expense, obtaining a radon test performed and written report provided by a "qualified third party" consistent with applicable government or industry protocols and standards. If Buyer fails to deliver a copy of the radon test report to Seller within the timeline described below, or if the radon test report indicates the level of radon is less than 4 picoCuries per liter (using the EPA Protocol Average if stated on the report), this contingency shall be deemed satisfied.

☐ If Buyer, within \_\_\_\_\_ days of acceptance, delivers to Seller a written copy of radon test report with results indicating a level of radon of 4.0 picoCuries per liter or more, the Parties hereby agree that Seller will permit a radon mitigation system to be installed prior to closing, and **(Buyer) (Seller) [STRIKE ONE]** ("Buyer" if neither is stricken) shall select: (1) a qualified mitigation contractor who will install an active radon mitigation system, consistent with EPA standards, prior to closing and provide the Parties, using the same standards as above, with a written test report showing radon level of less than 4.0 picoCuries per liter; and (2) the location of radon mitigation vent piping: **[Choose one of the two (2) following boxes below]**

☐ **(Buyer) (Seller) [STRIKE ONE]** ("Buyer" if neither is stricken) is responsible for the total cost of radon mitigation, expense not to exceed \$ \_\_\_\_\_ total.

☐ **Buyer and Seller** to equally share responsibilities for the total cost of radon mitigation, not to exceed \$ \_\_\_\_\_ in total.

If total repair estimate exceeds the amount specified, the Party(ies) responsible for the repair expense may terminate this Offer by delivering written notice of the total repair estimate to the other Party, unless the other Party, within 3 days of receipt of written notice, agrees to pay for the excess amount by delivering a written notice to the Party responsible for repair expenses.

☐ If Buyer, within \_\_\_\_\_ days of acceptance, delivers to Seller a copy of the radon report with results indicating the level of radon is 4.0 picoCuries per liter or more, this Offer shall be null and void.

(If the box at line 254 and the box at line 269 are both marked the box at line 254 shall prevail).

**CAUTION: When the Seller is providing Buyer with a radon warranty from a qualified independent company (which is sometimes provided if Seller is a relocation company) that includes a radon test and a mitigation system (mitigation system provided if the test results are 4.0 picoCuries per liter or more), Buyer should use the radon testing contingency above ONLY if Buyer wants to have a radon testing contingency in addition to the radon warranty plan provided by Seller.**

☐ **WAIVER OF RADON TESTING CONTINGENCY**

Buyer acknowledges there may be benefits to testing for the presence of radon gas. Buyer hereby voluntarily waives the inclusion of a testing contingency for radon gas on the Property.



280 ☐ **HOME WARRANTY PLAN:** A limited home warranty plan for a term of one year shall be included, effective the date of closing,  
281 provided the Property qualifies for the warranty plan. The cost of the home warranty shall not exceed \$ \_\_\_\_\_ and will  
282 be paid by (Buyer) (Seller) **STRIKE ONE** ("Seller" if neither is stricken) at closing. The warranty plan will be ordered by the (listing)  
283 (cooperating) **STRIKE ONE** ("listing" if neither is stricken) broker. Buyer is advised that a home inspection may detect pre-existing  
284 conditions which may not be covered under the warranty plan.

285 ☐ **WAIVER OF HOME WARRANTY**

286 Buyer acknowledges there may be benefits to having a limited home warranty plan for the Property. Buyer hereby voluntarily waives  
287 the inclusion of any requirement for a limited home warranty plan for the Property in this Offer.

288 **SELLER'S CONTRIBUTION**

289 ☐ Seller shall give Buyer a credit at closing in the amount of \$ \_\_\_\_\_ to assist Buyer in purchasing the Property.  
290 Buyer may use such funds for closing costs, pre-pays, escrows, and/or other fees allowed by Buyer's lender. Any funds not  
291 approved by Buyer's lender/underwriter prior to closing shall be credited back to the Seller at closing.

292 **CAUTION: No part of such funds may be used for payment of commission or fees to any broker.**

293 ☒ Buyer Agency Fee: Seller shall pay on behalf of Buyer at closing a Buyer Agency fee of \$ \_\_\_\_\_ or 3 %  
294 of sale price to Buyer's Broker. **Such payment is in addition to any compensation offered to Buyer Broker through the MLS or**  
295 **other applicable Broker-to-Broker agreements.**

296 ☒ **APPRAISAL CONTINGENCY WITH RIGHT TO CURE**

297 This Offer is contingent upon the Buyer or Buyer's lender having the Property appraised by a Wisconsin licensed or certified  
298 independent appraiser who issues an appraisal report dated subsequent to the date of this Offer indicating an appraised value for  
299 the Property equal to or greater than the agreed upon purchase price. This contingency shall be deemed satisfied unless Buyer,  
300 within 50 days of acceptance, delivers to Seller a copy of the appraisal report which indicates that the appraised value is not  
301 equal to or greater than the agreed upon purchase price. Seller may satisfy this Appraisal Contingency by delivering a written  
302 amendment to Buyer within five (5) days of delivery of the appraisal report, amending the agreed upon purchase price to match the  
303 appraised value. Buyer agrees to deliver an accepted copy of this amendment to Seller within five (5) days of delivery of the  
304 amendment of Seller. This Offer shall be null and void if Buyer makes timely delivery of the appraisal report and Seller either (a)  
305 delivers written notice that Seller will not change the price or, (b) Seller does not timely deliver the written amendment changing the  
306 purchase price. Buyer and Seller agree to make other amendments to this Offer necessitated by this change in purchase price.

307 **NOTE: An executed FHA/VA Amendment will supersede this clause.**

308 ☐ **WAIVER OF APPRAISAL CONTINGENCY**

309 Buyer acknowledges there may be benefits to obtaining an appraisal report for the Property as defined in the Offer. Buyer hereby  
310 voluntarily waives the right to have a separate appraisal contingency for the Property in this Offer.

311 **CLOSING AND ESCROW FEE(S)**

312 Buyer shall pay fees charged by the closing/escrow agent providing Buyer's mortgage closing services. In the event an escrow is  
313 required, the Party required to escrow funds shall arrange for the preparation of the escrow agreement and pay the fees charged by  
314 the escrow agent.

315 **Cash Closing:** If this is a cash closing (Buyer) (Seller) **STRIKE ONE** ("Buyer" if neither is stricken) will pay the closing fee charged  
316 by the closing agent.

317 **PERSONAL PROPERTY**

318 Seller warrants and represents that any personal property that may be a part of this transaction (e.g. stove, refrigerator, washer,  
319 dryer) is owned by Seller free and clear of any liens or encumbrances and is in working order at time of closing. No warranties or  
320 representations regarding condition survive the closing of this transaction.

321 **INSPECTIONS, TESTS, APPRAISALS, AND OPINIONS**

322 Real estate agent(s) may furnish a list of independent inspectors/testers to the Seller/Buyer as a convenience to the Party(ies) and  
323 are not responsible for the competency or performance of the inspectors/testers. The Party designated as responsible for obtaining  
324 any inspection or test shall be solely responsible for determining the qualifications of the inspector/tester. In the event any inspection  
325 or test is ordered on behalf or at the direction of a Party by a broker in the transaction, the Parties agree to hold the broker harmless  
326 for any damages or liability resulting from the inspection or test, other than that caused by the broker's negligence or intentional  
327 wrongdoing. Buyer may receive copies of certain inspection(s), test(s), appraisal(s) or other reports prepared for other parties and  
328 Buyer should carefully review such reports to determine the age and purpose of the report(s) and the standards of practice followed  
329 by the individual or entity preparing the report(s).

330 It is recommended the Buyer have the Property inspected by a Wisconsin registered home inspector or other qualified independent  
331 inspector/tester (for inspections/tests other than a "home inspection").

**SHARED DRIVEWAY**

If there is a shared driveway affecting the Property, this Offer is contingent upon Seller, at Seller's expense, providing Buyer with a copy of a written shared driveway agreement not less than five (5) days before closing. The agreement shall provide that the Parties to the agreement share equally in the rights and obligations relating to the shared driveway, including use and maintenance. This contingency shall be deemed satisfied unless Buyer, within five (5) days of Actual Receipt of the agreement, delivers to Seller a written notice listing Buyer's specific objections to the terms and conditions of the agreement. Upon Actual Receipt of said notice Seller shall have ten (10) days to cure said objections and the time for closing shall be extended accordingly. If Seller is unable to timely cure Buyer's objections, Buyer may terminate this Offer by delivering written notice of termination to Seller. If the agreement is not of record, it shall be provided in recordable form, with recording fees to be Seller's expense.

**BUYER'S RESPONSIBILITY TO ASCERTAIN CONDITION OF THE PROPERTY/MATERIAL FACTORS**

Buyer acknowledges that it is Buyer's responsibility to make certain that the Property is in a condition that Buyer finds acceptable. The Parties acknowledge that real estate licensees are not experts with respect to construction techniques or building materials and the Parties are advised to consult and rely on the opinions of appropriate experts. Buyer should be satisfied that Buyer knows how various factors will affect the Property, including, but not limited to, proximity to public transportation, airport overlay restrictions, airport noise, traffic noise, special health concerns of family members, vehicle or boat traffic, lake flies, pests, waterborne pests, ice shoves, water blooms/algae blooms, invasive aquatic vegetation, manufacturing noise, area odors, existing or abandoned landfills and/or quarries, parks, public trails, possible future assessments for public improvements and other conditions. Buyer acknowledges that Buyer has made such independent inquiries as Buyer deemed necessary concerning material factors. Buyer acknowledges that Buyer has not relied upon any statements or representations by Seller or any real estate agent regarding conditions or occurrences affecting the Property or transaction unless such statements or representations are contained in this Offer, are incorporated by reference into this Offer or have otherwise been provided to the Buyer in writing.

**INCLUSION OF OPTIONAL PROVISIONS**

For optional provisions in the Offer (and any addenda) which require a box to be checked which have not been marked n/a or struck in their entirety, if any blank within any part of the optional provision has been filled in, then it shall be as if the appropriate box also was marked, thereby including said optional provision with the Offer.

**ACKNOWLEDGEMENT OF TERMS**

The Parties acknowledge that the terms of this Addendum are incorporated into and made a part of the Offer. Seller's initials shall not constitute the acceptance or other disposition of the Offer, which disposition shall be as indicated on the Offer itself.





**CONFLICTING PROVISIONS**

Should any provision of this Addendum conflict with any provision of the Offer or any other Addenda to this Offer, the provisions of this Addendum shall prevail, except if an FHA/VA Amendatory clause is executed by the parties. The prevailing Central Time (Central Standard Time or Central Daylight Time) shall be used when determining whether a date and time in the Offer to Purchase are met. **NOTE: An executed FHA/VA Amendment will supersede this clause.**

**ADDITIONAL PROVISIONS/CONTINGENCIES**

**READING / UNDERSTANDING:**

By initialing below all Parties acknowledge receipt of this Addendum and that they have read it carefully. **BUYER AND SELLER ARE ADVISED THAT THIS ADDENDUM CONTAINS PROVISIONS WHICH MAY NOT BE APPROPRIATE IN ALL TRANSACTIONS. NO REPRESENTATION IS MADE AS TO THE LEGALITY, APPROPRIATENESS OR ADEQUACY OF ANY PROVISION IN A SPECIFIC TRANSACTION. BUYER AND SELLER ARE ENCOURAGED TO CONSULT WITH THEIR OWN LEGAL COUNSEL REGARDING THE INTERPRETATION, LEGALITY, APPROPRIATENESS OR ADEQUACY OF THE PROVISIONS OF THIS ADDENDUM.**

(X)	 04/25/18 _____ (Buyer(s)) Initials) ▲	Date ▲	(X)	 04/26/18 _____ (Seller(s)) Initials) ▲	Date ▲
(X)	 04/25/18 _____ (Buyer(s)) Initials) ▲	Date ▲	(X)	 _____ (Seller(s)) Initials) ▲	Date ▲



Parcel 31-1-6510-03



1-6505

USA Youth Complex

Badger Sports Park

1-6508

1-6508-2

E Evergreen Dr

1-6510-6

1-6510-5

1-6510-4

1-6510-3

1-6510-1

El Jaripeo

Subject Parcel

1-6510

N French Rd





**APPLETON STORAGE I, LLC**  
**SPECIAL USE DEVELOPMENT AGREEMENT**

THIS SPECIAL USE ~~RE~~DEVELOPMENT AGREEMENT (“Agreement”) is made by and between the City of Appleton (“City”), a municipal corporation and political subdivision of the State of Wisconsin, located in Outagamie County and Appleton Storage I, LLC, a Wisconsin limited liability company. (“Developer”).

WITNESSETH:

WHEREAS, Developer owns approximately ~~8.36~~11.56 acres of land located at 2400 West College Avenue in the City, within TIF District 10, all as described on the attached Exhibit A (the “Property”); and

WHEREAS, Developer seeks to divide the Property in accordance with the certified survey map (the “CSM”), which CSM was approved by the City on June 20, 2018. The CSM as approved by the City is attached hereto as Exhibit B; and

WHEREAS, Developer seeks to develop the Property into a personal storage facility on Lot 2 of the CSM and other uses on Lot 1 of the CSM; and

WHEREAS, on May 2, 2018, the City granted a conditional Special Use Permit for Lot 2 of the CSM; and

WHEREAS, the City conditioned the issuance of the Special Use Permit for the personal storage facility on the terms and conditions set forth below;

NOW THEREFORE, in consideration of the mutual covenants herein exchanged, the parties hereto agree as follows:

**SECTION I**

**PRE-DEVELOPMENT AND CONSTRUCTION PERIOD:** The following shall be undertaken by Developer in connection with the initial development of the Property into a personal storage facility, with related improvements, on Lot 2 of the CSM.

1. Plans. Developer is authorized to construct the development in strict conformity with plans and other documents submitted to and approved by the City, said plans and other documents being attached hereto, made a part hereof and marked as follows:

Exhibit A     Legal description

Exhibit B     Certified survey map

Exhibit C Site plan

Exhibit D Utilities, drainage and Grading-grading plan

Exhibit E Architectural plans, including elevations

Exhibit F Sign plan

Exhibit G Report adopted by the Plan Commission on April 10, 2018

Exhibit H Resolution #1-18 adopted by the Common Council on May 2, 2018

Exhibit I Landscaping plan submitted by the Developer for approval by the City

Developer agrees that all exhibits shall require final approval by City Staff, ~~City Planner, City Director of Inspection Services or City Engineer, as applicable,~~ before any plans can be implemented. Implicit in this covenant is the right of the City to require additional data and plan revisions, not inconsistent with applicable ordinances, or requests by required boards and committees. Such approvals shall not be unreasonably withheld, conditioned or delayed.

2. ~~Specific Planning Consultant~~Special Use Permit Conditions. City Staff must be satisfied that the specific conditions to the plans for the personal storage facility, as adopted by City, are met. These conditions include those set forth in Exhibit H, except as modified herein.

(a) Roadway. The section of the Property dedicated for public roadway, is depicted on Exhibit B. The dedication for public roadway on the Property and on the adjoining property in the Town of Grand Chute is depicted on Exhibit C. Any roadway to be constructed where depicted on either Exhibit B or C shall require no setback area, be 28 feet in width, shall be improved with pavement and curbing (at no cost to Developer) and shall not allow sidewalks or parking on either side. If the roadway improvements are not constructed within five (5) years of the issuance to Developer of the first occupancy permit on Lot 2 of the CSM, City shall vacate the dedicated roadway on the Property and convey it to Developer.

(b) Purchase Option. The City's right to purchase Lot 1 of CSM shall commence ~~upon~~three (3) years after the issuance of the first occupancy permit on Lot 2 of the CSM and shall expire three (3) years thereafter. During the period of the non-exclusive option, Developer retains the right to market Lot 1 of the CSM and, if Developer enters into a purchase/sale agreement with a prospective owner of Lot 1 of

the CSM, City's option right is suspended, pending closing of said purchase/sale agreement. If closing occurs, the option is cancelled. If closing does not occur, the City's option rights are reinstated. If the City chooses to exercise its option as provided above, the City shall notify Attorney Alan Marcuvitz by U.S. Mail of its decision. Both parties shall obtain an appraisal of Lot 1 within sixty (60) days of the City's notification of its intent to exercise said option and provided to the other party within ten (10) days of receipt. The parties shall negotiate the purchase price based upon the appraisals received. The appraisals shall establish a maximum and minimum purchase price for said property.

If the Developer enters into a purchase/sale agreement with a prospective owner of Lot 1 of the CSM, and said purchase/sale agreement is closed on said purchase, the City's option is not exercised. If a subsequent purchaser does not develop Lot 1 of the CSM within three (3) years of said purchase, the City's option becomes applicable on the terms herein identified.

3. Specific Engineering Conditions. City Staff must be satisfied that the additional specific conditions to the plans for the personal storage facility, as adopted by City, are met. All site engineering-related portions of the project, including traffic engineering, driveway design (including driveway design at intersecting streets), grading, storm water runoff and drainage, utilities, easements, sewer, water, electrical and all other engineering-related issues are subject to review and approval of the City Engineer.
4. Building Code Compliance. All proposed architectural and construction plans are subject to review and approval by the City ~~Director of Inspection Services~~ for compliance with all building codes.
5. Governmental Permits. Copies of any letters of review or permits required by any federal, state or county regulatory agency or other governmental agency shall be submitted to City prior to site plan approval.
6. Compliance with Ordinances. Developer shall comply with all applicable ~~Village~~ City ordinances during all construction by Developer, its successors or assigns on the Property.
7. Easement Documents. Prior to commencement of construction, Developer shall provide the City fully executed easements, as reasonably required by the City Engineer, such as utility easements benefiting the Property.
8. Off-Property Costs and Improvements. Developer shall pay all costs for

improvements and perform any work off the Property required by any imposition or requirement of any governmental body, including City, or any public utility.

9. Restrictive Covenants Prohibited. Other than this Agreement or as expressly authorized by City, neither Developer nor its successors or assigns may record with the Outagamie County Register of Deeds any covenant limiting or restricting the use of the Property or any portion of the Property. This prohibition does not apply to the recording of utility, access, storm water, parking or similar easements.

## SECTION II

OPERATIONAL CONDITIONS: The following conditions shall apply to operation of the proposed personal storage facility on Lot 2 of the CSM.

1. Outdoor Activities Prohibited. All sales, display, servicing, processing and other business, shall be conducted within completely enclosed buildings. All such activities are prohibited outdoors without a special use permit specifically granted by City for any such use.
2. Drives and Parking. Access drives are exclusively for ingress and egress for customer and employee vehicles and delivery trucks. Parking spaces are exclusively for parking for customer and employee vehicles. All parking shall occur in parking stalls designated in the Site Plan as off-street parking. There shall be no parking along College Avenue Service Road. Delivery truck parking shall be only for the reasonable time required to load and unload the trucks. All other use of parking spaces and drives is prohibited.
3. Truck Deliveries and Snowplowing. Truck deliveries and snowplowing shall be limited to 7:00 a.m. to 8:00 p.m. Snow from Lot 2 of the CSM shall not be stored on Lot 1 of the CSM.
4. Overhead Doors. All overhead doors shall remain closed unless loading or unloading is in progress.
5. Noise. HVAC mechanical units shall comply with the City noise ordinance. No outdoor public address speakers shall be used except as required for emergency purposes.

## SECTION III

AMENDMENTS:

This Agreement may not be rescinded, modified or amended, in whole or in part, except by mutual written agreement of the parties hereto, or their successors or assigns.

#### SECTION IV

##### SEVERABILITY OF PROVISIONS:

If any provision of this Agreement shall be held or declared to be invalid, illegal or unenforceable by reason of its being contrary to any applicable law, such provision shall be deemed to be deleted from this Agreement without impairing or prejudicing the validity, legality or enforceability of the remaining provisions.

#### SECTION V

##### MEDIATION OF DISPUTES REQUIRED:

Prior to litigation, and as a condition precedent to bringing litigation, any party deeming itself aggrieved under this Agreement shall be obligated to request nonbinding mediation of the dispute. Mediation shall proceed before a single mediator. In the event the parties cannot agree, the aggrieved party may then commence an action. However, the parties will thereafter be required to agree to alternative dispute resolution, if ordered by the Court.

#### SECTION VI

##### REMEDIES:

1. In the event of any party's default which is not cured within thirty (30) days after written notice thereof to the defaulting party, the non-defaulting party shall have all rights and remedies available under law or equity with respect to the default. In addition, and without limitation, any of the parties shall have the following specific rights and remedies:
  - (a) With respect to matters that are capable of being corrected by the non-defaulting party, the non-defaulting party may, at its option, correct the default and the non-defaulting party's reasonable costs in correcting the same, plus interest as provided in Section 3 below, shall be paid by the defaulting party to the non-defaulting party immediately upon demand;
  - (b) Injunctive relief;
  - (c) Action for specific performance; and;
  - (d) Action for money damages.
2. Reimbursement. Any amounts expended by the non-defaulting party in enforcing this Agreement, including reasonable attorney fees, together with interest at the



rate provided in Section 3 below, shall be reimbursed or paid to the non-defaulting party. If the defaulting party is Developer or its successors or assigns, such amounts expended by the City shall constitute a lien against the Property until such amounts are reimbursed or paid to the City, with such lien to be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.

3. Interest. Interest shall accrue on all amounts required to be reimbursed by the defaulting party to the non-defaulting party at the prime rate of interest as established from time to time by U.S. Bank N.A. plus two percent (2%) per annum, from the date of default until the date of reimbursement in full with accrued interest.
4. Remedies are Cumulative. All remedies provided herein shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.
5. Failure to Enforce Not Waiver. Failure to enforce any provision contained herein shall not be deemed a waiver of that party's rights to enforce such provision or any other provision in the event of a subsequent default.

## SECTION VII

### FORCE MAJEURE:

As used herein, the term "Force Majeure" shall mean any accident, breakage, war, insurrection, civil commotion, riot, act of God or the elements, governmental action, strike or lockout, picketing (whether legal or illegal), inability of a party or its agents or contractors, as applicable, to obtain fuel or supplies, or any other cause or causes beyond the reasonable control of such party or its agents or contractors, as applicable. The term "Force Majeure" shall not include depressed market or economic conditions. No party to this Agreement shall be in default hereunder if such party or its agents and contractors, if applicable, are prevented from performing any of its obligations hereunder due to a Force Majeure occurrence.

## SECTION VIII

### BINDING EFFECT:

This Agreement shall be binding upon the parties hereto and their successors and assigns. It is acknowledged that Developer may assign all or portions of its rights and obligations to retail end users.

## SECTION IX

NOTICES:

When any notice is to be provided by either party, the following are provided:

(a) City of Appleton  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Appleton Storage I, LLC  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION X

RECORDING:

A memorandum of this Agreement shall be recorded in the Office of the Register of Deeds for Outagamie County.

SECTION XI

As long as the tax increment district, including this site, remains in existence, the land and buildings on the site shall be owned and taxable for real estate tax, special assessments and personal property taxes. This provision may be waived at the option of the City upon the entry into a Payment in Lieu of Taxes (PILOT) agreement with the then property owner or lessee.

NOW, THEREFORE, in consideration of the terms, acknowledgments, understandings and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereby memorialize their understandings, acknowledgments, and agreements as aforesaid.

**[SIGNATURE PAGES TO FOLLOW]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated.

**DEVELOPER:**

APPLETON STORAGE I, LLC

\_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN )

: ss

MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, the above named \_\_\_\_\_, the \_\_\_\_\_ of APPLETON STORAGE I, LLC, a Wisconsin limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same, as the act and deed of said company, by its authority.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My Commission Expires: \_\_\_\_\_

**CITY:**

CITY OF APPLETON, WISCONSIN

\_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: Timothy M. Hanna

Title: Mayor

\_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: Kami Lynch

Title: City Clerk

STATE OF WISCONSIN )

: ss

MILWAUKEE COUNTY )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, the above named Timothy M. Hanna, the Mayor, and Kami Lynch, the City Clerk of the CITY OF APPLETON, a Wisconsin municipal corporation, to me known to be the persons who executed the foregoing instrument and acknowledged the same, as the act and deed of said municipal corporation, by its authority.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My Commission Expires: \_\_\_\_\_

Last Updated: 06/12/2018

By: James P. Walsh

City Law: A18-0505 / CR: A17-0804

**EXHIBIT A**

THE PROPERTY

**EXHIBIT B**

**CERTIFIED SURVEY MAP**



# Art in Public Places Policy

Appleton Public Art Committee

June 2018



## INTRODUCTION

This document serves as the policy to oversee the public display of art placed on publicly owned property and to serve as the road map to decisions made in relation to public art in the City of Appleton. This policy will also define the types of public art, how pieces will be chosen, approval and review process, the maintenance of each piece and the process for deaccession of the artwork. This policy does not apply to artwork on private property.

### What is Public Art?

Public art is any work of art or element of design that is sited in or on property that is publicly owned or controlled by the City of Appleton (parks, buildings, right-of-ways, etc.) for people to experience.

For the purposes of this policy, Public Property is defined as *a building and/or land owned and controlled and/or in which the use is operated by the City including fire stations, City Hall, public works and park facilities, library and the like.*

### Why Public Art?

Creative placemaking is a way of creating a special place and creating an identity within the places we frequent. Public art has been used in placemaking for decades and there are countless examples throughout the Fox Cities, State and Country on how the arts have improved the quality of life and enhanced the communities we live in.

### Why a Public Art Committee?

By developing a Public Arts Committee for the City of Appleton, the City can work toward deliberately creating these special places, events and moments. Creation of a Public Arts Committee will establish a more formal way to review and maintain public art, provide another avenue for the promotion of the arts community and show the continued desire to establish the arts as a priority for our community.

### Types of Public Art

Public art can take a wide range of forms, sizes, and scales—and can be temporary or permanent. Public art can include murals, sculpture, memorials, integrated architectural or landscape architectural work, community art, digital new media, lighting installations and even live performances.

#### Temporary/Events/Performance Public Art

Interactive cultural activities, performance-based work, or objects presented in public space that have a limited duration. Temporary public art is exhibited for 6 months or fewer. Public art may be experienced as a surprise or unanticipated activity, or as part of larger or anticipated events such as a festival, parade, or other community event. Temporary public art is transient and may last a few minutes or not more than 6 months. They may take place in one location or move but are not permanently sited.

Examples: Temporary public art can be almost any form; objects such as sculptures, interactive art or furnishing that are movable; street artists that perform music poetry, dance or skits; modification to existing structures through wrapping, projecting images or other means.

#### Functional Art

The primary purpose is functional or utilitarian. Works of art that serve a purpose in publicly owned spaces that are designed and/or embellished by artists.

Examples: seating, benches, bicycle racks, bus shelters, fences, gates, trash cans, lights, light poles, etc.

### Integrated Artwork

Fully incorporated into the design of a larger project or existing element in the community. Artists may work directly with the architects or engineers to enhance the qualities and functionality of publicly owned buildings, structures, spaces and/or infrastructure.

Examples: bridges, retaining walls, walkways, buildings, streetscaping, landscaping, functional building elements – façade elements, entrances, lobbies, etc.

### Two and Three - Dimensional Artwork

Two and Three-dimensional artwork has been the most common form of public art and comes in a variety of forms, including, but not limited to:

- Interpretive: Primary purpose is educating the public. The artwork might be self-explanatory or require a panel explaining the project.
- Monument: A statue, building or other structure created to commemorate a famous or notable person or event. They are typically cast in or sculpted from granite, bronze or marble.
- Mural or Mosaic: A painting or other work of art created or mounted on a wall. Media used to create the mural or mosaic can include paint, tile, glass or other found materials.
- Sculpture: Freestanding, physically independent of other site elements. Can consist of a variety of materials, including metals, wood, concrete, fiberglass, landscape, glass, etc.
- Sensory Art: Appeals to the senses – visual, auditory, touch or a combination of these. Can include water features, fountains, interactive sound or touch features, lighting, etc.

## **APPLETON PUBLIC ART COMMITTEE (APAC)**

The Appleton Public Art Committee (APAC) is responsible for implementing the Art in Public Places Policy. The APAC will create recommendations for the appropriate committee of jurisdiction based upon the proposed project/request. The recommendations will be forwarded to the Common Council to further the City of Appleton's commitment to the promotion, creation and maintenance of public art as defined in this policy. The Public Art Committee is a volunteer committee that works to support the goals and strategies for increasing the prevalence of public art and placemaking. It is important to understand that members will serve in an advisory capacity to the committees of jurisdiction.

The Committee will be made up of no more than 7 members that are appointed by the mayor and will have staggered terms of service. The Mayor will also appoint the chair of this committee.

The Community and Economic Development Committee (CEDC) will be the committee of jurisdiction to the APAC concerning the Art in Public Places Policy, committee budget, other policies and procedures applicable to the APAC. The APAC will also provide a report/summary of current project and initiatives to the CEDC at least every six months, or as requested by the CEDC.

### **Goals/Focus Areas**

1. Support the arts and cultural opportunities as identified in Comprehensive Plan 2010-2030 (see Exhibit A).
2. Serve as a forum to receive proposals, review for compliance with City policies and set forth maintenance and deaccession expectations.
3. Advocate for the arts by advising on policies and plans of the City, and by seeking non-City public and private resources to advance the work of the Public Art Committee.

4. Analyze gaps and opportunities in programming, support, funding, and promotion for the arts, cultural activity and economic development.
5. Increase public awareness, appreciation and contribution of public art.
6. Foster artistic creativity in the community and broaden public participation in the planning and creation of public artworks.
7. Consider development of an arts and cultural plan as recommended throughout the Comprehensive Plan.
8. Review and update the arts inventory.

### **Funding Sources**

Public art is typically funded through the government, but increasingly through public-private partnerships as well. An ongoing funding source is yet to be determined for Appleton Public Art Committee projects, but will need to be a decision made by the City's elected officials. Some funding options could include a potential annual budget allowance, fundraising, private donations, grants and/or allocations from public projects.

Initially, the APAC will be funded through an annual set aside amount in the City's budget. The final amount will be determined during the annual budgeting process. The funds can be used for the commission, purchase, fabrication, installation and maintenance of public artwork or other APAC recommended projects as approved by the Common Council.

## **PUBLIC ART GUIDELINES**

Note: These guidelines are a dynamic, working document that will be reviewed periodically by the APAC and amended as needed.

Specific criteria are needed to evaluate the location and appropriate type of public art projects sponsored by the City. Proposed public artwork shall be reviewed by the APAC. Recommendations will be requested by the APAC from affected committees, when appropriate, and as defined within this policy. The committee of jurisdiction for the APAC will be the CEDC. The typical approval process will include a recommendation by APAC to the applicable committee of jurisdiction based upon the specific project. Their recommendation would be forwarded to the Common Council.

For a City-commissioned project or set of projects, the APAC will establish a formal selection process, seeking a range of choices appropriate for each project. City Staff and the APAC should first articulate the desired goals, nature, budget and any other special requirements for each project. A Request of Proposals or Request for Qualifications should then be issued.

### **Proposed public art will be evaluated on the following:**

- Goals and Objectives. Each project should satisfy some of the goals and objectives as established by this policy, the 2010-2030 Comprehensive Plan and other applicable plans and policies.
- Context. The architectural, historical, geographical, geological and socio-cultural context of the site where the artwork will be installed or displayed.
- Structural Soundness. The resistance to theft, vandalism, weathering and/or excessive maintenance or repair costs.
- Public Safety. Artwork shall not present a hazard to public safety.
- Diversity. Rather than one kind of artwork, a range of styles, scale and approaches to public art should be considered.

- Feasibility. Evidence of the artist's ability to successfully complete the work as proposed including: project budget, timeline, artist's experience, soundness of materials and construction and design guidelines.
- Donor conditions. If applicable.
- Budget (if applicable). Proposal should provide a budget adequate to cover all costs for the design, fabrication, insurance, transportation, storage, installation and maintenance.
- Installation. Applicable engineering and structural details for the installation are provided.

### **Gifted Public Art**

Artwork that is presented to the City and not part of an APAC project, will be reviewed on a case-by-case basis by the APAC, and other applicable committees, in accordance with policies and review criteria outlined within this document.

### **Guidelines for Accepted Artwork**

The APAC will need to establish guidelines to follow when artwork is accepted. These guidelines and applicable agreements may vary widely dependent upon the type of artwork and will need to be flexible and customized for each project.

- After the decision is made to accept a piece of artwork, the artist is informed and a contractual agreement is drafted setting forth the length of the loan and other terms such as location, maintenance requirements and responsibility, insurance, value of the artwork, installation and removal responsibility, payment schedule (if applicable) and other conditions pertinent to the agreement. The agreement will be reviewed and approved by the committee of jurisdiction and forwarded to the Common Council for final approval. Some temporary public art may not require a formal agreement.
- Artwork may be declined at the discretion of the City Council consistent with the criteria in this policy.

### **Installation**

A plan for installation, including any requested structural and engineering information, shall be provided prior to any work commencing. Upon completion of the installation, the artist shall provide certification that the artwork was installed correctly and meets applicable/required structural standards.

### **Maintenance**

In general terms, the City will be responsible for the scheduling and action of maintenance and upkeep of public artwork on public property. Whether integrated into building construction or standing alone in a public park or right of way, each work requires routine maintenance such as cleaning or trimming weeds, as well as long-term repair such as sealing cracks, fabricating and re-attaching a broken piece or outright replacement. Each public art project should have a maintenance plan and agreement that is prepared as part of the commissioning or acquisition process.

### **Deaccession & Relocation of Artwork**

Deaccessioning and relocating should be applied by the APAC only after careful evaluation. The APAC will retain the right to relocate or deaccession any public artwork in accordance with this policy, regardless of the source of funding or method of acquisition. While the intent of acquisition is for long-term public display, circumstances and/or conditions may arise that make it prudent for the Committee, on behalf of the public interest, to remove an artwork from public display.

Deaccessioning and relocating of artwork may be considered for reasons including, but not limited to:

- The condition or security of the artwork cannot be reasonably guaranteed in its present location.

- The site is being eliminated.
- The site is being altered such that the artwork is no longer compatible with the site.
- The artwork presents a public safety risk.
- The cost of maintaining or updating the artwork's operating technology is cost prohibitive.
- The artwork requires excessive maintenance or has failures of design and workmanship.
- A more suitable location for the artwork has been proposed.
- The artwork no longer meets the goals of the Public Art Policy.

Procedures for possible deaccessioning or relocation of public artwork shall be initiated by a majority vote of the APAC, committee of jurisdiction or direction from the Common Council. Final approval of the deaccession or relocation of public artwork is required from the Common Council.

### **Procedures for Deaccessioning or Relocating of Public Artwork**

Once the APAC recommendation and the recommendations from the committee of jurisdiction are forwarded to the Common Council, and the Common Council has determined that the public artwork meets one or more of the above criteria, the following process is initiated:

- Review of any restriction which may apply to the specific work.
- Where appropriate and practical, City staff make a good faith attempt to discuss relocation with the artist.
- If, in the opinion of APAC, there is not another appropriate site, there will be an assessment of options for storage or disposition of artwork, which may include sale, trade, return to artist or gift.
- If the structural integrity or condition of an artwork, in the opinion of the APAC, City staff or other appropriate professional, presents an eminent threat to public safety, the Mayor may authorize its immediate removal, without City Council action or the artist's consent. The work may be placed in temporary storage. The artist must be notified of this action within 30 days. The APAC will then recommend options for disposition (e.g., repair, reinstallation, maintenance provisions or deaccessioning) to the City Council for approval.

## **REVIEW PROCEDURES**

The Appleton Public Art Committee will have jurisdiction over the placement or acceptance of public art; however, review by other applicable committees will be part of the review and approval process. Final approval is required by the Common Council. Community and Economic Development Staff will route the proposal to appropriate departments for review, comments and conditions. Projects will generally be reviewed by the Department of Public Works, Attorney's Office, Parks, Recreation & Facilities Management and Human Resources. The project can also be routed to any other applicable department based upon the project scope. The APAC will be responsible for reviewing the public artwork and making their recommendation to the committee of jurisdiction and the Common Council will make the final determination on whether or not the piece will be placed on publicly owned or controlled property.

Public Art Project Review Team:

- Department of Public Works – review pieces that will be placed within the public right-of-way or on certain structures under the jurisdiction of this department (i.e. parking ramps, utility stations, light poles, etc.).
- Parks, Recreation & Facilities Management– review projects that are proposed to be placed within public parks, City property and grounds, trails or City structures/facilities under the jurisdiction of this department.

- Human Resources – insurance and liability review and requirements.
- Attorney’s Office – liability, legal considerations and preparation of applicable documents and agreements.
- Others as determined appropriate by Staff.

## **Review Steps**

The procedure outline below are the general steps that will be involved when reviewing the placement of public art. Because public artwork can take on many forms, the review process is meant to be flexible and can be adjusted based upon each individual project. This process is expected to take 4 to 6 weeks dependent upon the project variables and meeting schedules.

1. Project initiation:
  - a. City-commissioned projects – APAC would typically develop project parameters and release a Request for Proposals. Once responses are received, they will be reviewed according to the RFP criteria.
  - b. Non city-commissioned projects – These are proposals initiated and funded by an entity other than the City. An application is submitted to Community and Economic Development Department (CEDD) staff. Project is forwarded to the APAC and the committee discusses item and determines if the project meets the goals and mission of the APAC.

Note: Approval/Review of Temporary artwork may be requested upon initial presentation to the APAC. It would then be forwarded to committee of jurisdiction and the Common Council.
2. The APAC refers the project to Community and Economic Development Department Staff to coordinate review.
3. CEDD Staff route the proposal to appropriate departments for review, comments and conditions. Projects will generally be reviewed by Staff representatives with the Department of Public Works, Attorney’s Office, Parks, Recreation & Facilities Management and Human Resources. The project can also be routed to any other applicable department based upon the project scope. These representatives shall furnish the CED Staff, in writing, their comments and/or conditions as to whether an application for a public art installation should be approved, approved conditionally or denied within 5 business days of receiving the application from CEDD.
4. CEDD Staff will compile all findings and recommendations and present a Staff Report for the project to APAC for approval/denial of the proposal. Conditions of APAC approval may be required.
5. APAC recommendation will be sent to the committee of jurisdiction for action.
6. Committee of jurisdiction recommendation forwarded to Common Council for final action.
7. Appropriate legal documents and agreements are finalized prior to artwork being accepted, constructed or installed.
8. Upon completion of the installation, the artist shall provide certification that the artwork was installed correctly and meets applicable/required structural standards.

## **Public Art Exemptions**

The following public art initiatives and/or displays are exempt from review by the Appleton Public Arts Committee and have been previously reviewed and approved by Municipal Services Committee and/or Common Council.

- Annual or previously approved Art events (these require Street Occupancy Permits through DPW):
  - Fiber Rain (Yarn Bombing)
  - Chalk on the Town
  - Paint on the Town
  - Park(ing) Day

- Ice Sculptures
- DPW funded and administered art programs:
  - Snowplow Painting Program
  - Sidewalk Poetry Program
- Other exempted artwork:
  - Mandalas on the Red Ramp
  - Traffic Control Boxes
  - Compassion Manhole Project
  - Marigold Mile and street name signage
  - Installation of free libraries made through CARE Program
  - Painting of Water Street retaining wall
  - Acre of Art – existing pieces only (as of May 2018), future artwork associated with Acre of Art, that are placed on public property, will need proper approvals
  - Wayfinding signs for trails and public parks
  - Existing artwork on/in public property



## **EXHIBIT A:**

### **Comprehensive Plan 2010-2030 References Relating to Public Art Committee**

Creating a Public Arts Committee and increasing the prevalence of public art is widely and strongly supported throughout the City's Comprehensive Plan 2010-2030. One of the "Key Issues" heard during the public participation process related to the creative culture and public art. The following questions were poised during this process: *How can the City and its partners encourage the growth and diversification of the local arts and creative culture scene? How can a broader arts strategy be pursued in a fair and equitable manner? How can public art and other forms of creative expression be leveraged to foster a stronger community identity?* Establishing a Public Arts Committee will work towards answering these questions and achieving a vision within the Comprehensive Plan.

A number of vision statements that characterized the quality of life in Appleton were developed to help guide the City's comprehensive planning process. One of those vision statements stated that: *"Creative place making and public art enhance the public realm and contribute to a vibrant economy."* This statement confirms that residents recognize and value the City's commitment to placemaking and public art.

Chapter 8: Agriculture, Natural, Historic, and Cultural Resources of the Comprehensive Plan provides a detailed overview of the cultural amenities or organizations currently provided for in the City. The objectives and policies within this chapter speak directly to maintaining, supporting and enhancing the arts within Appleton.

#### **8.4 OBJECTIVE: Support the organizations, events, and venues that make Appleton the arts and cultural center of the Fox Cities.**

- 8.4.1 *Provide appropriate financial, technical, and other resources to ensure the continued viability and growth of cultural organizations and attractions, in partnership with organizations such as Appleton Downtown, Inc., the Appleton Public Library, and the Fox Cities Convention and Visitor's Bureau.*
- 8.4.2 *Partner with other agencies and organizations to ensure the availability of adequate event space and logistical services to facilitate cultural and related events within the community.*
- 8.4.3 *Continue to broaden education and collaboration with diverse communities.*
- 8.4.4 *Support development of a signature downtown amphitheater to showcase Appleton's growing music and cultural performance scene.*

#### **8.6 OBJECTIVE: Consider developing a comprehensive Cultural Arts Plan to inform and guide efforts that position Appleton as the cultural center of the Fox Cities and a unique regional destination for those interested in history, culture, and all forms of artistic expression**

- 8.6.1 *Reach out to private businesses and arts and cultural organizations to determine if there is sufficient interest in and resources available to prepare a comprehensive Cultural Arts Plan.*
- 8.6.2 *Prepare a Cultural Arts Plan which goes beyond public art to proactively plan for how the City can leverage its tremendous cultural, musical, and creative talents to retain its young people, grow its tourism potential, and attract and retain creative workers to the region.*
- 8.6.3 *Consider establishment of a public arts fund to support on-going public art initiatives.*
- 8.6.4 *Partner with private businesses and organizations to help brand and market Appleton as the creative hub for northeast Wisconsin.*

Chapter 14 - Downtown Plan provides for specific recommendations for Appleton's Downtown and directly supports the creation of a Public Arts Committee. One of the recommendation is the "formal establishment of

*a city-wide arts council or commission to administer, promote a public art program and maintain public art collections.”*

This chapter also has a detailed section that illustrates the importance of the arts community to Appleton and encourages the expansion and promotion of placemaking and arts in the City. One of the key strategies identified in this chapter is the development of a citywide Arts and Culture Plan. The creation of a citywide Arts and Cultural Plan is also supported elsewhere within the Comprehensive Plan. This could be an important task that the Public Arts Committee could accomplish.

While there are countless references to the importance of the arts community within Chapter 14 – Downtown Plan, below are the specific Initiatives that establishing a Public Arts Committee would support:

*1.1 Continue development of entry features on major routes into the downtown*

- B. Partner with local artists to design entry features including at the intersection of College Avenue and Richmond Street.*

*1.3 Implement appropriate streetscaping projects throughout the downtown*

- E. Use lighting to showcase the growing inventory of public art downtown, while contributing to a more interesting environment for walking. Continue to integrate public art into streetscape enhancements downtown.*

*1.4 Install sculpture, murals, and other art in public locations throughout the downtown*

*2.1 Maintain and strengthen the vitality of the arts and entertainment niche*

- B. Consider various models of providing broad municipal support for the creation, installation, and maintenance of public art.*

*2.8 Establish an Arts and Culture Plan for the City*

*An Arts and Culture Plan is recommended for the entire City, as described in Chapter 8: Agricultural, Natural, Historic, and Cultural Resources. The plan would create a shared vision for the future of Appleton’s investments in a wide range of public art, educational, and cultural activities and programs. It would help guide both public and private actions and enable a more coordinated strategy to maximize efficiencies and returns on investments. The plan would leverage the City’s growing creative economy, strengthen tourism, and contribute to Appleton’s high quality of life. Implementing this strategy will require additional discussion, direction, and buy-in. Recommended next steps include:*

- A. The City forming a study group to explore alternative models for art and culture planning, inventory assets and opportunities, and survey best practices from other communities.*
- B. Consider engaging an outside facilitator or consultant with experience developing similar plans in order to develop a comprehensive strategy, including a governance and management structure for arts and culture development with clear policies and procedures.*
- C. Establishing criteria for oversight (review/approval) and ongoing maintenance of public art and cultural programs and activities.*
- D. Identifying and securing funding mechanisms.*

*5.6 Plan, design, and implement bike and pedestrian wayfinding signage*

- B. Install destination arrival signs and features that integrate public art into infrastructure*

*7.6 Promote the identity of the riverfront through creative use of lighting*



## **PUBLIC ART COMMITTEE COMMITTEE MEMBER APPLICATION FORM**

**Name:**

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**Address:**

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**Phone:**

**Email:**

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**Educational / Professional Background:**

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**Reason for Interest in the Public Art Committee:**

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**\* \* Feel free to attach a second page if you need additional space \*\***

**Please return to Jessica Titel – Principal Planner**

**[Jessica.Titel@appleton.org](mailto:Jessica.Titel@appleton.org) or drop off/mail – 100 N. Appleton Street, Appleton, WI 54911**