



**AGENDA  
BELOIT CITY COUNCIL  
100 State Street, Beloit WI 53511  
City Hall Forum – 7:00 p.m.  
Tuesday, January 17, 2012**

1. CALL TO ORDER AND ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. SPECIAL ORDERS OF THE DAY/ANNOUNCEMENTS
  - a. Recognition of Brett Hebert and Cheryl Simplot of the Water Resources Division for receiving the **Cities and Villages Mutual Insurance Company (CIVMIC) Significant Program Award** (Ciaramita)
4. PUBLIC HEARINGS
  - a. Proposed Ordinance to amend the **Zoning District Map** to change the Zoning District Classification from PLI, Public Lands and Institutions District, to C-2, Neighborhood Commercial District, for the property located at 1872 Porter Avenue (Christensen)  
1st reading, suspend rules for 2nd reading  
Plan Commission recommendation for approval 6-0
  - b. Public hearing regarding an **Intergovernmental Agreement** between the City of Beloit and the Ho Chunk Nation related to a Beloit Gaming Facility (Arft)
5. CITIZENS' PARTICIPATION
6. CONSENT AGENDA

All items listed under the Consent Agenda are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the General Order of Business and considered at this point on the agenda.

  - a. Approval of the **Minutes** of the Special and Regular meetings of December 19, 2011 and the Special Meeting of January 4, 2012 (Houseman)
  - b. Resolution approving the **Intergovernmental Agreement** with the State of Illinois for the Staline Area Transportation Study Metropolitan Planning Organization (Flesch)
  - c. Application for a **Certified Survey Map** for properties located at 1800 Gateway Boulevard & 1751 Apex Drive (Christensen) Refer to Plan Commission
7. LICENSES
  - a. Resolution **Setting Return Date and Authorizing Issuance of Summons** for an Alcohol License Sanction Hearing for Sembhi, Inc., d/b/a BP Gas Station, 2933 Milwaukee Road, Kristin Loehr, Agent (Krueger)

8. ORDINANCES – none

9. APPOINTMENTS

10. COUNCILOR ACTIVITIES AND UPCOMING EVENTS

11. CITY MANAGER'S PRESENTATION – none

12. REPORTS FROM BOARDS AND CITY OFFICERS

- a. Resolution approving the **Agreement** between the City of Beloit and the American Federation of State, County, and Municipal Employees Local #643 Transit (Arft)

13. ADJOURNMENT

\*\* Please note that, upon reasonable notice, at least 24 hours in advance, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information to request this service, please contact the City Clerk's Office at 364-6680, 100 State Street, Beloit, WI 53511.

Dated: January 11, 2012  
Rebecca S. Houseman  
City of Beloit City Clerk  
<http://www.ci.beloit.wi.us>

You can watch this meeting live on Charter PEG channel 98 or digital channel 992. Meetings are rebroadcast during the week of the Council meeting on Tuesday at 1:00 p.m., Thursday at 8:30 a.m. and Friday at 1:00 p.m.
--

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE  
ZONING DISTRICT MAP OF THE CITY OF БЕЛОIT**

The City Council of the City of Beloit, Rock County, Wisconsin do ordain as follows:

**Section 1.** The Zoning District Map of the City of Beloit, mentioned in the Zoning Code, Chapter 19 of the Code of General Ordinances of the City of Beloit, is amended as follows:

The following described land, also known as 1872 Porter Avenue, is hereby changed from PLI, Public Lands and Institutions District to C-2, Neighborhood Commercial District:

Lot 1 of a Certified Survey Map as recorded in Volume 14 on Pages 219-221 of the Certified Survey Maps of Rock County, located in the City of Beloit, County of Rock, State of Wisconsin. Said parcel contains 0.93 acre, more or less.

**Section 2.** This Ordinance shall take effect and be in force upon its passage and publication.

Adopted this 17th day of January, 2012.

**City Council of the City of Beloit**

\_\_\_\_\_  
Kevin D. Leavy, Council President

Attest:

\_\_\_\_\_  
Rebecca S. Houseman, City Clerk

Published this \_\_\_\_ day of \_\_\_\_\_, 2012

Effective this \_\_\_\_ day of \_\_\_\_\_, 2012

01-611100-5231-\_\_\_\_

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

---



**Topic:** Zoning Map Amendment Application for the property located at 1872 Porter Avenue

**Date:** January 17, 2012

**Presenter(s):** Julie Christensen

**Department:** Community Development

---

### **Overview/Background Information:**

AZR Financial Inc. has submitted an application for a Zoning Map Amendment to change the zoning district classification from PLI, Public Lands and Institutions District to C-2, Neighborhood Commercial District, for the property located at 1872 Porter Avenue.

---

### **Key Issues (maximum of 5):**

- The applicant submitted this application in an effort to increase the number of permitted uses of the subject property. The PLI District is a special purpose district that is intended to accommodate major public and quasi-public uses such as schools, parks, and public buildings. The C-2, Neighborhood Commercial District is primarily intended to accommodate neighborhood-oriented retail sales and service uses.
  - In September 2011, the Planning Division discovered that the applicant is operating an unauthorized circuit board assembly use in this building, which was constructed as a convent affiliated with Beloit Catholic High School and used by Rock County OIC for 20 years. A Notice of Violation was issued, and the applicant applied for a Use Variance to allow a circuit board assembly use in a PLI District, which was denied by the Board of Appeals on November 8, 2011.
  - The circuit board assembly use is not allowed in the C-2 District, and the applicant must relocate this assembly operation by January 16, 2012 per an agreement with the Planning Division. The application states that the applicant intends to operate a business that repairs computers and office equipment on the subject property. Repair-oriented retail sales/service uses are permitted by right in the C-2 District.
  - If this application is approved by the City Council, the Planning Division will initiate a Zoning Map Amendment to rezone the adjacent property from PLI to C-2 to avoid a spot zoning situation.
  - The Plan Commission reviewed this item on January 4, 2012 and voted unanimously (6-0) to recommend approval of this Zoning Map Amendment.
- 

### **Consistency with Comprehensive Plan and Strategic Plan:**

The Comprehensive Plan recommends Neighborhood Commercial uses and a zoning district classification of C-2 for the subject property. This proposed Zoning Map Amendment is consistent with the Comprehensive Plan, as required by Section 66.1001(3) of Wisconsin Statutes.

Consideration of this request supports City of Beloit Strategic Goal #4.

---

**Sustainability:** (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines)

- **Reduce dependence upon fossil fuels** – N/A
  - **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature** – N/A
  - **Reduce dependence on activities that harm life sustaining eco-systems** – N/A
  - **Meet the hierarchy of present and future human needs fairly and efficiently** – N/A
- 

### **Action required/Recommendation:**

- City Council consideration and 1<sup>st</sup> reading of the proposed Ordinance
- 

**Fiscal Note/Budget Impact:** N/A

---

**Attachments:** Ordinance and Staff Report to the Plan Commission

---

# CITY OF BELOIT

## REPORT TO THE BELOIT CITY PLAN COMMISSION



**Meeting Date:** January 4, 2012

**Agenda Item:** 3

**File Number:** ZMA-2011-06

**Applicant:** AZR Financial Inc.

**Owner:** AZR Financial Inc.

**Location:** 1872 Porter Avenue

**Current Zoning:** PLI, Public Lands and Institutions District

**Existing Land Use:** Manufacturing (Unauthorized)

**Parcel Size:** 0.93 Acre

**Proposed Zoning:** C-2, Neighborhood Commercial District

---

### Request Overview/Background Information:

AZR Financial Inc. has submitted an application for a Zoning Map Amendment to change the zoning district classification from PLI, Public Lands and Institutions District to C-2, Neighborhood Commercial District, for the property located at 1872 Porter Avenue.

The attached **Location & Zoning Map** shows the location of the subject property and the zoning of the surrounding area. The adjacent zoning and land uses are as follows:

- North: R-1B, Single-Family Residential District; Single-Family Dwellings & Parking Lot
- South: PLI, Public Lands and Institutions District; Day Care Center
- East: R-1B, Single-Family Residential District; Single-Family Dwellings
- West: PLI, Public Lands and Institutions District; Day Care Center

The Zoning Ordinance directs the Plan Commission to hold a hearing and make a recommendation regarding a Zoning Map Amendment when the specific site and context are suitable for the uses permitted in the proposed zoning district.

---

### Key Issues:

- The applicant submitted this application in an effort to increase the number of permitted uses of the subject property.
- The PLI District is a special purpose district that is intended to accommodate major public and quasi-public uses such as schools, parks, and public buildings. The C-2, Neighborhood Commercial District is primarily intended to accommodate neighborhood-oriented retail sales and service uses.
- In September 2011, the Planning Division discovered that the applicant is operating an unauthorized circuit board assembly use in this building, which was constructed as a convent affiliated with Beloit Catholic High School and used by Rock County OIC for 20 years. A Notice of Violation was issued, and the applicant applied for a Use Variance to allow a circuit board assembly use in a PLI District, which was denied by the Board of Appeals on November 8, 2011.
- The circuit board assembly use is not allowed in the C-2 District, and the applicant must relocate this assembly operation by January 16, 2012 per an agreement with the Planning Division. The application states that the applicant intends to operate a business that repairs computers and office equipment on the subject property. Repair-oriented retail sales/service uses are permitted by right in the C-2 District.
- Planning staff mailed the attached Public Notice to the owners of nearby properties. As of this writing, staff has not received any comments or concerns regarding this application.
- **Findings of Fact** - Based on Section 2-304 of the Zoning Ordinance, the Plan Commission shall make a recommendation based on the following considerations:
  - a. *The existing use of property within the general area of the subject property;*
    - The subject property is located in the northeast corner of the former Beloit Catholic High School campus, adjacent to a predominantly residential area. The uses that are permitted in the C-2 district are generally compatible with residential uses, while more intense uses are conditional or prohibited in the C-2 district.
  - b. *The zoning classification of property within the general area of the subject property;*
    - The subject property, the former high school (now Head Start) property, and Summit Park are part of a large PLI district surrounded by R-1B, Single-Family Residential districts. If this application is approved by the City Council, the Planning Division will initiate a Zoning Map Amendment to rezone the adjacent property from PLI to C-2 to avoid a spot zoning situation.
  - c. *The suitability of the subject property for the uses permitted under the existing zoning classification; and*
    - The subject property is suitable for many of the uses that are permitted in the PLI district, although the building design and layout make many potential uses impractical.

- d. *The trend of development and zoning map amendments in the general area of the subject property.*
- There has been very little development activity in the general area during the past decade.

---

**Consistency with Comprehensive Plan and Strategic Plan:**

The Comprehensive Plan recommends Neighborhood Commercial uses and a zoning district classification of C-2 for the subject property. This proposed Zoning Map Amendment is consistent with the Comprehensive Plan, as required by Section 66.1001(3) of Wisconsin Statutes.

Consideration of this request supports City of Beloit Strategic Goal #4.

---

**Sustainability:** (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines)

- **Reduce dependence upon fossil fuels** – N/A
- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature** – N/A
- **Reduce dependence on activities that harm life sustaining eco-systems** – N/A
- **Meet the hierarchy of present and future human needs fairly and efficiently** – N/A

---

**Staff Recommendation:**

Based upon the above Findings of Fact and the City's Comprehensive Plan, the Neighborhood Planning Division recommends **approval** of a Zoning Map Amendment to change the zoning district classification from PLI, Public Lands and Institutions District to C-2, Neighborhood Commercial District, for the property located at 1872 Porter Avenue.

---

**Fiscal Note/Budget Impact:** N/A

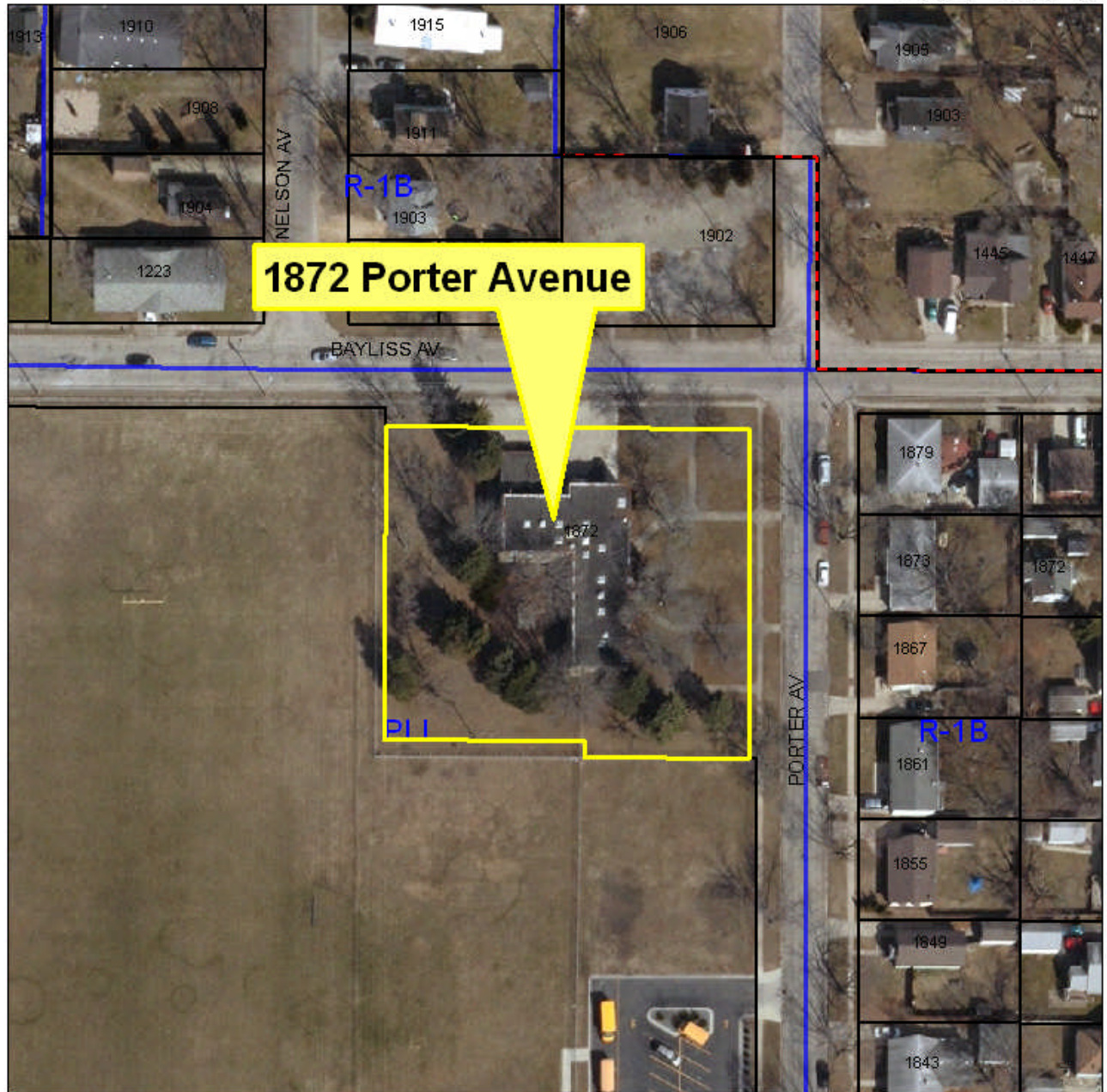
---

**Attachments:** Location & Zoning Map, Application, Public Notice, and Mailing List.

# Location & Zoning Map

1872 Porter Avenue

ZMA-2011-06



1 inch = 84 feet  
0 15 30 60 90 Feet

**Legend**

- COB Parcels
- Zoning District

Map prepared by: Drew Pennington  
Date: December 2011  
For: City of Beloit, Neighborhood Planning  
Date of Aerial Photography: March 2011

## NEIGHBORHOOD PLANNING DIVISION

# CITY of BELOIT

## NEIGHBORHOOD PLANNING DIVISION

100 State Street, Beloit, WI 53511

Phone: (608) 364-6700

Fax: (608) 364-6609

### Zoning Map Amendment Application Form

(Please Type or Print)

File No.: ZMA-2011-06

1. Address of subject property: 1872 PORTER Avenue (off)

2. Legal description: Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_  
(If property has not been subdivided, attach a copy of the complete legal description from deed.)

Property dimensions are: \_\_\_\_\_ feet by \_\_\_\_\_ feet = \_\_\_\_\_ square feet.

If more than two acres, give area in acres: \_\_\_\_\_ acres.

3. Tax Parcel Number(s): 12510532

4. Owner of record: AZR FINANCIAL Phone: \_\_\_\_\_

616 S. MAIN ST. JANESVILLE WI 53545  
(Address) (City) (State) (Zip)

5. Applicant's Name: SAMB

\_\_\_\_\_  
(Address) (City) (State) (Zip)

\_\_\_\_\_  
(Office Phone #) (Cell Phone #) (E-mail Address)

6. **THE FOLLOWING ACTION IS REQUESTED:**

Change zoning district classification from: PL1 to: C-2

All existing uses on this property are: PROPOSED COMMERCIAL/RETAIL

7. All the proposed uses for this property are:

Principal use(s): COMPUTER/CIRCUIT BOARD REPAIR OF OFFICE EQUIPMENT

Secondary use(s): OTHER RETAIL RENTAL SPACES

Accessory use(s): \_\_\_\_\_



8. I/we represent that I/we have a vested interest in this property in the following manner:

- Owner
- Leasehold, Length of lease: \_\_\_\_\_
- Contractual, Nature of contract: \_\_\_\_\_
- Other, explain: \_\_\_\_\_

9. Individual(s) responsible for compliance with conditions (if any), if request is granted:

Name(s): \_\_\_\_\_ Phone: \_\_\_\_\_

(Address)                                      (City)                                      (State)                                      (Zip)

**The applicant's signature below indicates the information contained in this application and on all accompanying documents is true and correct.**

I/we, the undersigned, do hereby respectfully make application for and petition the City Plan Commission and City Council to grant the requested action for the purpose stated herein. I/we represent that the granting of the proposed request will not violate any of the required standards of the Zoning Ordinance of the City of Beloit. I/we also agree to abide by all applicable federal, state and local laws, ordinances, rules, and regulations.

*AR Financial Inc. John Lambros*                      AR FINANCIAL INC                      11/15/11  
 (Signature of Owner)                                      (Print name)                                      (Date)

\_\_\_\_\_  
 (Signature of Applicant, if different)                      (Print name)                      (Date)

In order for your request to be heard and considered in a timely manner, you must submit the completed application and all accompanying documents to the Neighborhood Planning Division for acceptance by the filing deadline date prior to a scheduled Plan Commission meeting. This application must be submitted with the \$275.00 application fee. Applicants will also be charged a fee for mailing public notices at the rate of \$0.50 per notice. An invoice for this fee will be sent to the applicant, and it is typically between \$5.00 and \$20.00.

<b>To be completed by Planning Staff</b>		
Filing Fee: <b>\$275.00</b>	Amount Paid: <u>\$275.00</u>	Meeting Date: <u>Dec. 21, 2011</u>
Number of notices: _____ x mailing cost (\$0.50) = cost of mailing notices: \$ _____		
Application accepted by: <u>Don Pennington</u>		Date: <u>11/15/11</u>
Date Notice Published: _____	Date Notice Mailed: _____	



City of  
**BELOIT**, Wisconsin  
Division of Neighborhood Planning

CITY HALL • 100 STATE STREET • BELOIT, WI 53511  
Office: 608/364-6700 • Fax: 608/364-6609  
[www.ci.beloit.wi.us](http://www.ci.beloit.wi.us)

*Equal Opportunity Employer*

## **NOTICE TO THE PUBLIC**

December 13, 2011

To Whom It May Concern:

AZR Financial Inc. has submitted an application for a Zoning Map Amendment to change the zoning district classification from PLI, Public Lands and Institutions District to C-2, Neighborhood Commercial District, for the property located at:

**1872 Porter Avenue.**

The applicant has submitted this application in an effort to increase the number of permitted uses of the subject property.

The following public hearings will be held regarding this application:

**City Plan Commission:** Wednesday, January 4, 2012, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**City Council:** Tuesday, January 17, 2012, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**THE PUBLIC IS INVITED TO ATTEND THESE HEARINGS.**

**We are interested in your opinion.**

Anyone bringing handouts to the Plan Commission meeting must bring ten (10) copies and submit them to the Recording Secretary before the meeting begins. Staff is unable to leave the meeting area to make copies.

*For additional information, please contact Drew Pennington in the Neighborhood Planning Division at (608) 364-6711 or [penningtoud@ci.beloit.wi.us](mailto:penningtoud@ci.beloit.wi.us). Comments will be accepted via telephone, email, and U.S. Mail.*

ZMA-2011-06, 1872 Porter Avenue

OSCAR DELATORRE  
1831 PORTER AVE  
BELOIT, WI 53511

JOSEPH CHRISLAW  
P O BOX 371  
JANESVILLE, WI 535470371

VIRGIL MARSHALL  
1849 PORTER AVE  
BELOIT, WI 535113644

DON HELMS  
3750 GESLEY RD  
BELOIT, WI 53511

M FINNEGAN & COMPANY  
LLP  
P O BOX 41  
BELOIT, WI 535120041

JASON E & KERI K REPTA  
1876 FAYETTE AVE  
BELOIT, WI 53511

GERALD & ROBERT HYDE  
P O BOX 405  
BELOIT, WI 535120405

CHERYL CISNEROS  
1903 NELSON AVE  
BELOIT, WI 53511

MIGUEL ACEVES  
729 VERNON AVE  
BELOIT, WI 53511

JAMES THOMAS  
1445 BAYLISS AVENUE  
BELOIT, WI 53511

OBDULIO ARELLANO  
1836 FAYETTE AVE  
BELOIT, WI 535119225

KHANHHY TRAN  
2124 GRANDCHESTER PL  
ROCKFORD, IL 611072720

ANGELA HODGES  
1856 FAYETTE AVE  
BELOIT, WI 535113651

DWIGHT HORTON  
1861 PORTER AVE  
BELOIT, WI 53511

THOMAS ANGOTTI  
1872 FAYETTE AVE  
BELOIT, WI 53511

TOLISE & BONNIE HARRIS  
1879 PORTER AVE  
BELOIT, WI 535113644

JESUS M & PENNY L FLORES  
1901 NELSON AVE  
BELOIT, WI 53511

MELISSA ERICKSON  
729 VERNON AVE  
BELOIT, WI 53511

KARRY DEVAULT  
TOWN OF BELOIT CLERK  
2871 S. AFTON ROAD  
BELOIT, WI 53511

JOYCE DAVIDSON  
1907 PORTER AVENUE  
BELOIT, WI 53511

RAMON JIMENEZ  
1837 PORTER AVE  
BELOIT, WI 53511

LIBBY ALLDREDGE  
1848 FAYETTE AVE  
BELOIT, WI 53511

GILBERTO BECERRA  
1855 PORTER AVE  
BELOIT, WI 535113644

JOSE L & ODULIA MENDOZA  
2031 PRAIRIE AVE  
BELOIT, WI 535113135

JESSICA SIMONS  
1873 PORTER AVE  
BELOIT, WI 53511

HENDRICKS COMMERCIAL  
PROPERTIES LLC  
655 THIRD ST STE 301  
BELOIT, WI 53511

JOHN WAXLER  
1841 SHORE DR  
BELOIT, WI 53511

RDM ENTERPRISE LLC  
1643 OAK ST  
BELOIT, WI 53511

ISAIAH WHITAKER  
1906 PORTER AVENUE  
BELOIT, WI 53511

RICHARD ROSINSKI  
322 COUNTRY VIEW COURT  
JANESVILLE, WI 53548

FOR DISCUSSION ONLY  
JANUARY 10, 2012

# INTERGOVERNMENTAL AGREEMENT

---

HO-CHUNK NATION  
CITY OF БЕЛОIT  
ROCK COUNTY

TABLE OF CONTENTS

ARTICLE I DEFINITIONS .....3

    Section 1.1. “City” .....3

    Section 1.2. “City Approved PUD” .....3

    Section 1.3. “City Improvements” .....3

    Section 1.4. “City Zoning Ordinance” .....3

    Section 1.5. “Class III Gaming” .....3

    Section 1.6. “Commencement Date” .....3

    Section 1.7. “County” .....3

    Section 1.8. “Development Agreement” .....3

    Section 1.9. “Development Area” .....3

    Section 1.10. “Effective Date” .....3

    Section 1.11. “Exhibits” .....3

    Section 1.12. “Federal Trust” .....4

    Section 1.13. “Federal Trust Application” .....4

    Section 1.14. “Gaming Compact” .....4

    Section 1.15. “Impact Payments” .....4

    Section 1.16. “Impacts” .....4

    Section 1.17. “Indian Gaming Regulatory Act” .....4

    Section 1.18. “Indian Reorganization Act” .....4

    Section 1.19. “Infrastructure Down Payment” .....4

    Section 1.20. “Joint Commission” .....4

    Section 1.21. “Municipal Services” .....4

    Section 1.22. “Nation” .....4

    Section 1.23. “Nation Approved PUD” .....5

    Section 1.24. “Nation Fee Property” .....5

    Section 1.25. “Nation Gaming Ordinance” .....5

    Section 1.26. “Nation Trust Property” .....5

    Section 1.27. “Nation Zoning Ordinance” .....5

    Section 1.28. “Net Win” .....5

**INTERGOVERNMENTAL AGREEMENT**

Section 1.29. “Net Win Payment” .....	5
Section 1.30. “Party” .....	5
Section 1.31. “Parties” .....	5
Section 1.32. “Permitted Beloit Ordinances” .....	5
Section 1.33. “PUD Application” .....	5
Section 1.34. “PUD Zoning District” .....	5
Section 1.35. “Quarter” or “Quarterly” .....	5
Section 1.36. “Quarter of Operation” .....	5
Section 1.37. “Room PILOT” .....	5
Section 1.38. “Secretary of the Interior” .....	6
Section 1.39. “Trust Approval Date” .....	6
Section 1.40. “Wisconsin’s Minimum Mark-up Law” .....	6
<b>ARTICLE II COMMITMENTS OF THE CITY AND THE COUNTY</b> .....	6
Section 2.1. Municipal Services.....	6
Section 2.2. City Improvements.....	6
Section 2.3. Support of Federal Trust Application .....	7
Section 2.4. Resolution of Support .....	7
Section 2.5. Support of Gaming Compact Amendments .....	7
Section 2.6. Additional Class-III Gaming Facility.....	7
<b>ARTICLE III COMMITMENTS OF THE NATION</b> .....	7
Section 3.1. Impact Payments.....	7
Section 3.2. Wire Transfer of Impact Payments.....	8
Section 3.3. County-City Split of Net Win Payment.....	8
Section 3.4. Business Operations on Nation Fee Property.....	8
Section 3.5. Audits and Records.....	8
Section 3.6. Nation’s Infrastructure Commitments.....	8
Section 3.7. Charitable Contributions.....	9
Section 3.8. Compulsive Gambler Program .....	9
Section 3.9. Nation Sovereignty .....	9
Section 3.10. Municipal Ordinances and Inspections.....	10
Section 3.11. Tobacco Sales .....	12

Section 3.12. Fuel Sales .....	12
Section 3.13. Day Care Center.....	12
Section 3.14. Gaming Only As Authorized .....	12
ARTICLE IV TERM .....	13
Section 4.1. Termination.....	13
Section 4.2. Reutilization of the Trust Land for Purposes other than Class III Gaming.....	13
Section 4.3. Automatic Expiration.....	13
ARTICLE V WAIVER OF IMMUNITY AND DISPUTE RESOLUTION.....	13
Section 5.1. Meet and Confer .....	13
Section 5.2. Limited Waiver of Sovereign Immunity.....	13
Section 5.3. Jurisdiction and Venue.....	14
Section 5.4. Limitation of Remedy.....	14
Section 5.5. Service of Process.....	14
Section 5.6. Governing Law .....	14
Section 5.7. Exclusive Remedy .....	14
Section 5.8. Exhaustion of Remedies .....	15
Section 5.9. Prevailing Party to Receive Costs and Fees.....	15
Section 5.10. No Challenges to this IGA.....	15
Section 5.11. Indemnification.....	15
ARTICLE VI TERMINATION.....	16
ARTICLE VII AUTHORIZATION .....	16
Section 7.1. Authorization .....	16
Section 7.2. Nation Resolutions.....	16
Section 7.3. City Resolutions.....	17
Section 7.4. County Resolutions.....	17

ARTICLE VIII NOTICES .....17

ARTICLE IX INTERPRETATION .....18

ARTICLE X SEVERABILITY .....18

ARTICLE XI GOOD FAITH AND FAIR DEALING.....18

ARTICLE XII CAPTIONS.....18

ARTICLE XIII AGREEMENT IN COUNTERPARTS .....18

ARTICLE XIV AMENDMENTS .....19

ARTICLE XV COMPLETE AGREEMENT .....19

ARTICLE XVI APPROVAL BY THE SECRETARY OF THE INTERIOR.....19

ARTICLE XVII ASSIGNMENT OR TRANSFER .....19

ARTICLE XVIII FORCE MAJEURE.....19

DRAFT



## INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (this "IGA") is entered into as of the Effective Date by and between the HO-CHUNK NATION, a federally recognized Indian Tribe organized under Section 16 of the Indian Reorganization Act, the CITY OF BELOIT, a municipal corporation organized under the laws of the state of Wisconsin, and COUNTY OF ROCK, a municipal corporation organized under the laws of the state of Wisconsin.

### RECITALS

WHEREAS, capitalized terms used in these recitals are defined in Section 1 of this IGA;

WHEREAS, pursuant to the provisions of the IRA, the Nation has adopted a constitution, which was approved by the Secretary of the Interior on November 1, 1994;

WHEREAS, pursuant to Article V, § 2(i) of the Nation's constitution, the Nation's Legislature holds the exclusive authority to "negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals";

WHEREAS, pursuant to Article XII, § 1 of the Nation's constitution, the Nation's Legislature holds the authority to waive the Nation's sovereign immunity from suit;

WHEREAS, the Nation (then known as the Wisconsin Winnebago Tribe) entered into the Gaming Compact with the government of the state of Wisconsin pursuant to the Indian Gaming Regulatory Act;

WHEREAS, the Gaming Compact, approved by the Secretary of the Interior on July 30, 1992, authorizes the Nation to conduct Class III Gaming at three (3) Class III Gaming facilities in Wisconsin;

WHEREAS, the Gaming Compact authorizes the Nation to construct and operate one (1) additional Class III Gaming Facility in Wisconsin;

WHEREAS, the Nation has purchased, and intends to conduct Class III Gaming upon, the Nation Trust Property;

WHEREAS, the Nation intends to submit the Federal Trust Application to the Secretary of the Interior with respect to the Nation Trust Property;

WHEREAS, pursuant to 25 U.S.C. § 2719(b)(1) of the Indian Gaming Regulatory Act, the Secretary of the Interior may approve the Federal Trust Application if, after consultation with the Nation and appropriate State and local officials, it determines that the Beloit Class III Gaming Facility would be in the best interest of the Nation and its members, and would not be detrimental to the surrounding community, but only if the Governor of Wisconsin concurs in the Secretary of Interior's determination;

WHEREAS, the support of local government is important to secure the Secretary of the Interior's approval of the Federal Trust Application, and to the ultimate success of the Beloit Class III Gaming Facility;

WHEREAS, a purpose of this IGA is to more clearly describe the scope of the Parties' respective rights and obligations, to minimize conflict, and to maximize the Parties,' and their residents' and members' collective prosperity, benefit and cooperation;

WHEREAS, the Parties recognize the Beloit Class III Gaming Facility will be beneficial to the City, County, area residents, and to the Nation and its tribal members by, among other things, providing increased revenue, economic development, and employment opportunities;

WHEREAS, the City and County acknowledge the significant investment the Nation intends to make with the establishment of the Beloit Class III Gaming Facility and the benefits derived therefrom to the Beloit community;

WHEREAS, the Nation recognizes that the approval of the Federal Trust Application and the operation of the Beloit Class III Gaming Facility will have the potential Impacts described hereinafter;

WHEREAS, in order to address and compensate for the Impacts, the City and County have requested, and the Nation has agreed to provide, the Impact Payments to the City and County;

WHEREAS, the City and County recognize that the Impact Payments to be made by the Nation to the City and County under this IGA shall be substantially higher than taxes and assessments paid to the City and County by a business not engaged in the conduct of Class III Gaming but of comparable location, size and valuation to the Beloit Class III Gaming Facility and that the Impact Payments therefore are good and valuable consideration to the City and County in recognition of and in compensation for the Impacts and of the City's and County's obligations hereunder;

WHEREAS, the Parties intend that nothing in this IGA will limit the customary application of the general ordinances of the City and the ordinances of the County with respect to the Nation Fee Property; and

WHEREAS, the Parties, out of mutual respect and recognition of their separate governmental status and authority, desire to enter into this IGA concerning their rights and obligations in regard to the Nation Trust Property, the Beloit Class III Gaming Facility, the Impact Payments, the Nation Fee Property, and certain other appurtenant matters.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## INTERGOVERNMENTAL AGREEMENT

## ARTICLE I DEFINITIONS

Section 1.1. "City" means the City of Beloit, Wisconsin, a municipal corporation organized and existing under the laws of the state of Wisconsin.

Section 1.2. "City Approved PUD" means the PUD Zoning District for the Nation Trust Property in the form approved by the City in accordance with Section 3.10.4 of this IGA.

Section 1.3. "City Improvements" means certain improvements to City infrastructure intended to support the operation of the Beloit Class III Gaming Facility.

Section 1.4. "City Zoning Ordinance" means Chapter 19 of the City ordinances, as amended.

Section 1.5. "Class III Gaming" shall have the definition given such term in the Indian Gaming Regulatory Act.

Section 1.6. "Commencement Date" means the date on which the Beloit Class III Gaming Facility is first made open to the public for the purpose of Class III Gaming.

Section 1.7. "County" means the County of Rock, Wisconsin, a municipal corporation organized and existing under the laws of the state of Wisconsin.

Section 1.8. "Development Agreement" means an agreement to be entered into between the City and Nation with respect to the City Improvements, which the City and Nation anticipate becoming effective shortly following the Trust Approval Date.

Section 1.9. "Development Area" means the real property depicted on the map attached hereto as Exhibit E.

Section 1.10. "Effective Date" means the first date upon which all of the following have occurred: (i) approval of this IGA by the governing bodies of each of the Parties; (ii) execution of this IGA by the appropriate officers of the Parties; and (iii) approval of this IGA in the form approved and executed by the Parties by the Secretary of the Interior under 25 U.S.C. § 81 (or a written determination by the Secretary of the Interior that this IGA is not subject to 25 U.S.C. § 81).

Section 1.11. "Exhibits" means and includes the following exhibits to this IGA:

<b>Exhibit A</b>	Legal Description and Map of Nation Trust Property
<b>Exhibit B</b>	Nation Resolutions Approving this IGA
<b>Exhibit C</b>	City Resolutions Approving this IGA
<b>Exhibit D</b>	County Resolutions Approving this IGA
<b>Exhibit E</b>	Depiction of Development Area

Section 1.12. "Federal Trust" means ownership of real property by the United States for the benefit of a federally recognized Indian tribe.

Section 1.13. "Federal Trust Application" means the Nation's fee-to-trust application to the Secretary of the Interior to place the Nation Trust Property into Federal Trust pursuant to 25 U.S.C. § 2719(b) of the Indian Gaming Regulatory Act.

Section 1.14. "Gaming Compact" means the Gaming Compact of 1992 dated June 11, 1992 by and between the Nation and the state of Wisconsin, as amended.

Section 1.15. "Impact Payments" means the Infrastructure Down Payment, the Net Win Payment, and the Room PILOT, each made in recognition of the Impacts, as further described in Section 3.1 of this IGA.

Section 1.16. "Impacts" means the following potential impacts to the City and County resulting from the acceptance of the Nation Trust Property into Federal Trust and the conduct of Class III Gaming at the Beloit Class III Gaming Facility: (i) loss of real estate and personal property tax revenue; (ii) increased utilization of municipal services; (iii) increased use of the City and the County infrastructure; (iv) a need for additional improvements to City and County infrastructure; (v) increased maintenance, repair and replacement of County and/or City infrastructure; and (vi) costs related to mitigating impacts arising out of Class III Gaming.

Section 1.17. "Indian Gaming Regulatory Act" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., as amended.

Section 1.18. "Indian Reorganization Act" means the Indian Reorganization Act of 1934, 25 U.S.C. § 461, et seq., as amended.

Section 1.19. "Infrastructure Down Payment" means a one-time Impact Payment in the amount of two million dollars (\$2,000,000.00).

Section 1.20. "Joint Commission" means a four-member panel comprised of two (2) members of the Nation Legislature and two (2) members of the City Council, as further described in Section 3.10.4 of this IGA.

Section 1.21. "Municipal Services" means the provision of municipal potable water, storm water control and diversion, sanitary sewer collection and treatment, police, fire inspection and emergency response, public safety dispatch, emergency medical and ambulance service, and all other applicable municipal services customarily provided to City residents under the Permitted Beloit Ordinances, together with applicable inspections and permitting.

Section 1.22. "Nation" means the Ho-Chunk Nation, a federally recognized Indian Tribe organized under Section 16 of the Indian Reorganization Act.

Section 1.23. "Nation Approved PUD" means the PUD Zoning District for the Nation Trust Property in the form approved by the Nation in accordance with Section 3.10.4 of this IGA.

Section 1.24. "Nation Fee Property" means any interests in real property owned by the Nation within the Development Area, except for the Nation Trust Property.

Section 1.25. "Nation Gaming Ordinance" means 5 HCC § 1, as amended.

Section 1.26. "Nation Trust Property" is the approximately 32 acres of real property located within the boundaries of the City as legally described on the attached Exhibit A, together with all appurtenant rights.

Section 1.27. "Nation Zoning Ordinance" means 8 HCC § 4, as amended.

Section 1.28. "Net Win" shall have the definition given such term in the Gaming Compact.

Section 1.29. "Net Win Payment" means the Impact Payment described in Section 3.1.2 of this IGA.

Section 1.30. "Party" means any of the Nation, the City or the County.

Section 1.31. "Parties" means the Nation, City and County, collectively.

Section 1.32. "Permitted Beloit Ordinances" means the designated chapters of the General Code of Ordinances for the City of Beloit, which will be applicable on the Nation Trust Property as listed in Section 3.9 of this IGA, all as amended.

Section 1.33. "PUD Application" means an application prepared by the Nation with respect to the Nation Trust Property to rezone the Nation Trust Property to a PUD Zoning District as further described in Section 3.10.4 of this IGA.

Section 1.34. "PUD Zoning District" means planned unit development district zoning under the City Zoning Ordinance and planned unit development combining zone under the Nation Zoning Ordinance, as amended.

Section 1.35. "Quarter" or "Quarterly" means occurring at 3-month intervals.

Section 1.36. "Quarter of Operation" means the period commencing upon the first day of the first full month following the Commencement Date, and ending upon the last day of the third month thereafter, and including each Quarterly period thereafter during the term of this IGA.

Section 1.37. "Room PILOT" means the Impact Payment and payment in lieu of taxes by the Nation in an amount equal to the amount that would be due and owing under the City's ordinance enacted under § 66.0615 Wis. Stats. if such ordinance were applicable to the Nation Trust Property, as further described in Section 3.1.3 of this IGA.

Section 1.38. "Secretary of the Interior" means the Secretary of the United States Department of Interior.

Section 1.39. "Trust Approval Date" means the first date upon which all of the following have occurred: (i) approval of any Gaming Compact amendments necessary to approve or construct the Beloit Class III Gaming Facility by the Governor of Wisconsin, the Nation and the Secretary of the Interior; (ii) approval of the Federal Trust Application by the Secretary of the Interior and the Governor of Wisconsin; and (iii) publication in the Federal Register of an official notice from the Secretary of the Interior that the Nation Trust Property has been accepted into Federal Trust.

Section 1.40. "Wisconsin's Minimum Mark-up Law" means Wisconsin law applicable to the mark-up of fuel prices over wholesale cost.

## **ARTICLE II COMMITMENTS OF THE CITY AND THE COUNTY**

Section 2.1. Municipal Services. It is recognized that both the City and the County shall provide the Municipal Services to the Nation and shall bill the Nation (in addition to the Impact Payments) for the provision of the Municipal Services in the same manner as is usual and customary for all other users of such Municipal Services; provided, however, and notwithstanding anything to the contrary in this IGA, that any costs and fees associated with providing the Municipal Services that are customarily included in City or County real property taxes or special assessments shall not be billed separately to the Nation and shall be deemed paid as part of the Impact Payments.

Section 2.2. City Improvements. The City Improvements, and the City's and Nation's respective rights and obligations with respect to the City Improvements and related matters shall be set forth in a Development Agreement to be separately negotiated and entered into by the City and Nation. The preliminary scope of City Improvements is as follows: (i) construction of a fourth lane on the east side of Willowbrook Road between Stateline Road on the south and Colley Road on the northerly border of the Nation Trust Property, to include driveway aprons, deceleration/turning lanes, and other necessary and appurtenant road infrastructure and including certain improvements to Willowbrook Road made prior to the Effective Date in support of the Nation Trust Property; (ii) reconstruction, including possible relocation, of Colley Road to meet applicable design standards and as deemed appropriate by the City and Nation, including the installation of curb and gutter in either a two (2) or four (4) lane configuration; and (iii) construction of traffic signalization in the vicinity of the Nation Trust Property at the intersections of existing and/or reconstructed public streets, if warranted by applicable design standards. The cost of the City Improvements will be financed and paid for exclusively by the City and will be subject to repayment from the Nation to the City pursuant to a guaranteed minimum payment and the Infrastructure Down Payment as further described in the Development Agreement.

Section 2.3. Support of Federal Trust Application. The City and the County shall support the Federal Trust Application consistent with this IGA. In the event this IGA is revised or disapproved, in whole or in part, in any fashion by the Secretary of the Interior, the City or the County may reconsider such support at their respective discretion.

Section 2.4. Resolution of Support. The City agrees to provide the Nation with a resolution adopted by the City Council in support of the Beloit Class III Gaming Facility and Federal Trust Application. The City agrees to consult with the Nation on the language to be contained in the resolution and to present it to the Nation no later than one hundred twenty (120) days after the Effective Date.

Section 2.5. Support of Gaming Compact Amendments. Upon and after the Effective Date, the City and County shall support and not oppose approval by the Governor of Wisconsin and the state of Wisconsin of any additional amendments to the Gaming Compact necessary to effectuate the operation of the Beloit Class III Gaming Facility consistent with this IGA. The Nation shall provide sufficient information and shall confer with the City and County regarding any amendment to the Gaming Compact affecting the operation of the Beloit Class III Gaming Facility. All information provided to the City and County regarding the negotiation of such amendment, including, without limitation, drafts thereof, shall be confidential and not subject to public disclosure.

Section 2.6. Additional Class III Gaming Facility. The City and the County agree that, during the term of this IGA and for so long as the Nation conducts Class III Gaming on the Nation Trust Property, the City and County shall not support the establishment of any Class III Gaming Facility within Rock County other than the Beloit Class III Gaming Facility.

### **ARTICLE III COMMITMENTS OF THE NATION**

Section 3.1. Impact Payments. In exchange for the Impacts, the Nation agrees to make the following Impact Payments described below.

3.1.1 Infrastructure Down Payment. Subject to the terms of the Development Agreement, the Nation shall make a Two Million and No/100 Dollar (\$2,000,000.00) Infrastructure Down Payment to the City, payable within thirty (30) days following the Trust Approval Date, which shall be applied against the cost of the City Improvements. Because this Infrastructure Down Payment will be applied by the City against the cost of the City Improvements, it will be paid exclusively to the City and will not be divided between the City and County as provided for in Section 3.3 of this IGA.

3.1.2 Net Win Payment. On or before the fifteenth (15<sup>th</sup>) day of each month following a Quarter of Operation, the Nation shall make a payment to the City equivalent to two percent (2%) of the Net Win at the Beloit Class III Gaming Facility with respect to such prior Quarter of Operation.

3.1.3 Room PILOT. The Nation agrees to make applicable Quarterly payments of the Room PILOT to the Beloit Convention and Visitor's Bureau. Because the Room PILOT will be paid exclusively to the Beloit Convention and Visitor's Bureau, it will not be divided between the City and County as provided for in Section 3.3 of this IGA.

3.1.4 Nation Fee Property. Except for the Nation Trust Property, if the Nation acquires real property within the Development Area, then such property will be Nation Fee Property hereunder and shall not be included in the Federal Trust Application. If the Nation later desires to submit such Nation Fee Property to Federal Trust, then the Parties agree to negotiate in good faith an amendment hereto with respect to such application. Nothing in this IGA shall prevent or restrict in any manner the Nation's acquisition and development of Nation Fee Property.

Section 3.2. Wire Transfer of Impact Payments. The Nation shall make all Impact Payments to the City and Beloit Convention and Visitors Bureau (in the case of the Room PILOT) by wire transfer to an account or accounts specified in writing by the City Treasurer no later than the date such Impact Payment is due and payable hereunder.

Section 3.3. County-City Split of Net Win Payment. The City shall, in a timely manner, make distributions, following receipt of each Net Win Payment from the Nation under this IGA, to the County equal to thirty percent (30%) of the amount of each Net Win Payment actually received by the City.

Section 3.4. Business Operations on Nation Fee Property. Business operations conducted on Nation Fee Property shall be taxed as any other business and pay such amounts as are generally levied upon similar businesses operated in the City. The Nation agrees that it will not sell on Nation Fee Property any casino chips, tokens, coupons, tickets or similar credits for redemption, Class III Gaming or any other use at the Beloit Class III Gaming Facility.

Section 3.5. Audits and Records. The Nation shall provide the City with a copy of those portions of the annual independent financial audit dealing with the Beloit Class III Gaming Facility that have been provided to the State pursuant to the Gaming Compact at the close of each Nation fiscal year following the Commencement Date. The financial audit provided to the City shall meet the requirements set forth in the Gaming Compact and as specifically contained therein in § XII thereof. Should the Gaming Compact be amended or renumbered in any fashion, the above references shall be deemed to include the equivalent amended or renumbered provisions thereof. Each year, the City shall notify the Nation when its Comprehensive Annual Financial Report (CAFR) is completed and posted to the City's website for the Nation's information and use.

Section 3.6. Nation's Infrastructure Commitments.

3.6.1 Signalization. Should the Nation desire to install signalization at Beloit Class III Gaming Facility entrance site which is other than a public roadway intersection, and provided



further that the signalization meets appropriate traffic design warrants, the cost for said installation shall be borne by the Nation.

3.6.2 Private Infrastructure. The costs of constructing and maintaining private roadways, driveways and parking facilities upon the Nation Trust Property or Nation Fee Property shall be the responsibility of the Nation, including any off-street loading and storage sites. The Nation shall be further responsible for the construction and maintenance of private water lines, private sewer service lines and private storm water lines upon the Nation Trust Property or Nation Fee Property.

3.6.3 Road Relocation. Should the Nation and the City mutually agree to relocate one or more existing roadways adjacent to or nearby the Nation Trust Property, it shall be the responsibility of the Nation to acquire the necessary property and to dedicate right-of-way of a sufficient width to meet then applicable traffic design standards for roadway width.

3.6.4 Green Construction. The Nation acknowledges its intent to build environmentally friendly buildings and facilities. Accordingly, the Nation will construct the Beloit Class III Gaming Facility in a manner that honors its heritage, culture and Mother Earth as it relates to the treatment of natural resources and the environment.

Section 3.7. Charitable Contributions. The Nation acknowledges that in addition to Impact Payments and other requirements provided herein, the Nation anticipates making charitable contributions to Beloit-area-based not-for-profits, service clubs, and related organizations to help support philanthropic activities within the Beloit area. The Nation has a long history of such contributions at its other Wisconsin Class III Gaming facilities and will continue that practice at the Beloit Class III Gaming facility.

Section 3.8. Compulsive Gambler Program. The Nation shall maintain at the Beloit Class III Gaming Facility, its programs and policies for the assessment, identification and assistance of compulsive gamblers currently in effect at its other Class III Gaming facilities.

Section 3.9. Nation Sovereignty. In accordance with applicable law, no City or County law, ordinance, code, resolution, rule or other regulation limiting zoning or otherwise governing, regulating, or controlling the use or development of real or personal property, shall be applicable to the Nation Trust Property. The Nation shall have and enjoy, to the maximum extent permitted under applicable law, sovereign control, ownership and governance over any lands accepted into Federal Trust on behalf of the Nation, including without limitation, the Nation Trust Property (following the Trust Approval Date), and over all activities conducted thereupon unless and to the extent expressly waived in accordance with applicable law by the Nation in this IGA. Notwithstanding the above and subject to the terms and conditions of this IGA, the Nation shall permit the City to enforce upon the Nation Trust Property only the following portions of the Code of General Ordinances of the City of Beloit (collectively, the "Permitted Beloit Ordinances"):

Chapter 6 – Fire Prevention Code;  
Chapter 7 – Property Maintenance Code;  
Chapter 8 – Plumbing Code;  
Chapter 9 – Building Code;  
Chapter 10 – Electrical Code;  
Chapter 11 – Streets and Sidewalks;  
Chapter 13 – Traffic Code;  
Chapter 15 – Public Peace and Good Order;  
Chapter 16 – Public Nuisances;  
Chapter 17 – Regulation of Solid Waste;  
Chapter 19 – Zoning Code;  
Chapter 24 – Stormwater Management;  
Chapter 26 – Heating and Air Conditioning Code;  
Chapter 27 – City Water Utility;  
Chapter 29 – Wastewater Treatment System;  
Chapter 30 – Outdoor Sign Regulations;  
Chapter 31 – Alcohol Beverages; and  
Chapter 34 – Architectural Review and Landscape Code. Notwithstanding anything to the contrary herein, the Permitted Beloit Ordinances shall not include the rights and obligations of the City Board of Appeals.

Section 3.10. Municipal Ordinances and Inspections.

3.10.1 Permitted Beloit Ordinances. The Nation shall permit the City to enforce the Permitted Beloit Ordinances upon the Nation Trust Property. Notwithstanding anything in this IGA to the contrary, any provision of the Permitted Beloit Ordinances that conflicts with provisions of the Indian Gaming Regulatory Act, the Gaming Compact, or this IGA or that in any way restricts Class III Gaming, or that is applied exclusively to the Nation or to the Nation Trust Property to the detriment of the Nation, shall be deemed excluded from the Permitted

Beloit Ordinances and inapplicable to the Nation Trust Property. The Nation further hereby (i) authorizes the Beloit Police Department, the Beloit Fire Department, and City inspectors to carry out their respective rights and obligations under the Permitted Beloit Ordinances upon the Nation Trust Property, (ii) authorizes the office of the Beloit City Attorney to carry out its rights and obligations in prosecuting violations of the Permitted Beloit Ordinances occurring upon the Nation Trust Property, and (iii) authorizes City district and circuit courts located within the City and County to adjudicate violations of the Permitted Beloit Ordinances occurring upon the Nation Trust Property. The Nation agrees to construct and maintain or cause to be constructed and maintained all buildings and improvements at the Nation Trust Property in accordance with the relevant chapters of the Permitted Beloit Ordinances governing building design, construction, safety, and operation, and to submit to all related City inspections, fees and approvals required with respect thereto.

3.10.2 Grant of Right of Access and Inspection. The Nation hereby grants to the Beloit Police Department, the Beloit Fire Department and to applicable City inspectors a license to access the Nation Trust Property and Beloit Class III Gaming Facility as necessary to perform their respective duties under the Permitted Beloit Ordinances. Except during emergencies, the City shall make reasonable efforts to provide the Nation with advance notice when scheduled or regular inspections are needed, and such inspections shall be made during normal business hours. Such notice shall be made by phone or e-mail to such phone number or e-mail address designated in writing by the Nation from time to time.

3.10.3 Zoning and Land Use—Nation Fee Property. The Nation Fee Property shall be subject to all chapters of the Beloit municipal code, including chapters related to zoning, building, construction, site plan and architectural review.

3.10.4 Zoning and Land Use-Nation Trust Property.

3.10.4.1 Prior to Completion of Construction. At all times prior to the issuance of a certificate of occupancy for the Beloit Class III Gaming Facility, the Permitted Beloit Ordinances shall apply to and govern the zoning and land use of improvements upon the Nation Trust Property; provided, however, that all rights and obligations of the City Board of Appeals with respect to the Nation Trust Property shall be held and exercised solely by the Joint Commission. The Nation shall prepare and submit to the City in accordance with the City Zoning Ordinance, the PUD Application for the Nation Trust Property. The PUD Application shall include a general development plan for the Nation Trust Property and will include a specific development plan for the Beloit Class III Gaming Facility. The construction of the Beloit Class III Gaming Facility shall occur consistent with the City Approved PUD and with all other applicable Permitted Beloit Ordinances. In addition, the Nation shall adopt and approve the City Approved PUD as a Nation Approved PUD. The City and Nation agree to act in good faith hereunder and to not unreasonably delay or refuse to issue any approvals, minutes, certificates, or inspections contemplated hereunder.

3.10.4.2 Following Completion of Construction. At all times following the issuance of a certificate of occupancy for the Beloit Class III Gaming Facility, the Nation Zoning Ordinance shall exclusively apply to the Nation Trust Property; provided, however, that if the Nation (following the issuance of a certificate of occupancy for the Beloit Class III Gaming Facility) wishes to construct improvements on the Nation Trust Property in a manner that varies from the City Approved PUD, then the Nation shall first submit an application to amend the City Approved PUD to the Joint Commission. As a condition of approval, the Joint Commission may require review and recommendation by City and/or Nation planning and zoning staff. The City and Nation and Joint Commission agree to act in good faith hereunder and to not unreasonably delay or refuse to issue any approvals, minutes, certificates, or inspections contemplated hereunder. Notwithstanding anything to the contrary hereunder, all Permitted Beloit Ordinances except for the City Zoning Ordinance shall continue to apply and govern over the Nation Trust Property following the issuance of a certificate of occupancy for the Beloit Class III Gaming Facility.

Section 3.11. Tobacco Sales. Notwithstanding anything herein to the contrary, neither the City nor the County shall impose or enforce any prohibition or restriction on the sale of tobacco products on the Nation Trust Property; provided, however, that the Nation shall collect and remit all federal, Nation and state taxes applicable to such sales and shall abide by applicable State of Wisconsin laws governing the sale of tobacco to minors and prohibitions against certain forms of tobacco.

Section 3.12. Fuel Sales. Notwithstanding anything in this IGA to the contrary, the Nation shall be permitted to engage in the construction and operation of a gasoline station upon the Nation Trust Property for the purpose of engaging in the retail sale of gasoline, diesel fuel, kerosene, and/or propane, together with tobacco products and other consumables; provided, however, that the Nation's sale and storage of such fuels shall be subject to all applicable federal, Wisconsin, County and City health and safety laws and regulations (including inspections) governing the installation, operation and closure of such facilities, and that all fuel sales to non-members of the Nation shall be subject to the same federal, Nation, Wisconsin, County and City (if applicable) taxes then in effect for the retail sale of fuels in Beloit, Wisconsin, with all such taxes, or equivalent payments thereto to be collected by the Nation and remitted to the appropriate government agency. Further, the sale of gasoline by the Nation on the Nation Trust Property shall be subject to Wisconsin's Minimum Mark-up Law, if any.

Section 3.13. Day Care Center. The Nation may provide day care services to serve the patrons and employees of the Beloit Class III Gaming Facility. Any such day care facility shall be licensed and operated in compliance with State of Wisconsin, City and County laws, rules, ordinances and regulations related to the operation of day care facilities.

Section 3.14. Gaming Only As Authorized. Class III Gaming shall be conducted at the Beloit Class III Gaming Facility in accordance with Indian Gaming Regulatory Act, the Gaming Compact, the Nation Gaming Ordinance, and shall be subject to the authority of the Nation Gaming Commission.

## ARTICLE IV TERM

Section 4.1. Termination. This IGA shall remain in effect until either of the following occurs: (i) termination of Class III Gaming at the Nation Trust Property; or (ii) termination of the Gaming Compact with respect to the Nation Trust Property; provided, however, that this IGA may continue in effect thereafter upon the written consent of the Parties.

Section 4.2. Reutilization of the Trust Land for Purposes other than Class III Gaming. Should the Nation, for any reason, cease Class III Gaming on the Nation Trust Property and desire to continue to use the Nation Trust Property for other purposes, it agrees to enter into good faith negotiations with the City and County to amend this IGA or to create a new intergovernmental agreement to mitigate the impact of the proposed different use. The utilization of the Nation Trust Property for purposes that do not include Class III Gaming shall not commence until either an amended IGA or new intergovernmental agreement is in place that provides for impact payments to the City and County.

Section 4.3. Automatic Expiration. This IGA shall automatically expire and become null and void on the date occurring three (3) years following the Effective Date if the Trust Approval Date has not then occurred, unless the Parties agree otherwise in writing.

## ARTICLE V WAIVER OF IMMUNITY AND DISPUTE RESOLUTION

Section 5.1. Meet and Confer. Whenever, during the term of this IGA, any disagreement or dispute arises between the Parties as to the interpretation of this IGA or any rights or obligations arising thereunder, all such matters shall be resolved, whenever possible, by meeting and conferring. Any Party may request such a meeting by giving notice to the other, in which case such other Party shall make itself available within seven (7) days thereafter. If such matters cannot be so resolved within ten (10) days after the longer of giving such notice to confer or conferring which has commenced within seven (7) days of giving such notice, or for matters involving immediate threat to public health or safety without any requirement to meet and confer, any Party may seek judicial enforcement of this IGA as provided in Section 5.2 of this IGA.

Section 5.2. Limited Waiver of Sovereign Immunity. The Parties do not waive, limit, or modify their respective immunity from unconsented suit, except as expressly provided herein.

5.2.1 By the Nation. The Nation, pursuant to Article XII, § 1, of the Nation's Constitution, by resolution of the Nation's Legislature, expressly waives for the City and County only, in a limited manner, its immunity from suit with respect to matters arising under this IGA.

5.2.2 By the City. The City, by resolution of the City Council, expressly waives for the Nation and County only, in a limited manner, its immunity from suit with respect to matters arising under this IGA.

5.2.3 By the County. The County, by resolution of the County's Board of Supervisors, expressly waives for the Nation and City only, in a limited manner, its immunity from suit with respect to matters arising under this IGA.

Section 5.3. Jurisdiction and Venue. Any Party may commence an action or counterclaim against other Parties in the United States District Court for the Western District of Wisconsin or the Wisconsin Circuit Court for Rock County (subject to the right of any Party to petition for removal of said action to the United States District Court for the Western District of Wisconsin) with respect to disputes arising out of or relating to this IGA. The Parties agree that, whenever arguments for federal jurisdiction can be made consistent with the requirements of Federal Rule of Civil Procedure 11, they shall file any such actions in the United States District Court for the Western District of Wisconsin.

Section 5.4. Limitation of Remedy. The Parties' waiver of sovereign or governmental immunity provided herein is specifically limited to the following actions and judicial remedies: (i) declaratory relief to determine whether either Party or both are violating any of the terms of this IGA; (ii) equitable relief to compel the Party or Parties to specifically perform their obligations under this IGA; and (iii) monetary relief limited to the award of any sums that may be due and owing under the terms of this IGA. A prevailing Party shall further be entitled to enforce any equitable relief granted by court order or injunction and enforce, execute upon and obtain satisfaction of any resulting monetary judgment through any remedy which that Party would be able to invoke if the other Party were an entity that did not enjoy sovereign or governmental immunity (including, but not limited to the remedies of attachment and foreclosure).

Section 5.5. Service of Process. If a Party initiates any legal action to enforce the provisions of this IGA, the Parties agree, and do hereby expressly authorize, the City Clerk of the City on behalf of the City, the Secretary to the Nation's Legislature on behalf of the Nation, and the County Clerk on behalf of the County, to accept service of process. In addition, the Nation expressly gives its consent to any process server authorized by the City or County to come onto the Nation's Trust Lands where the Nation's administrative governmental offices are located for the sole purpose of personally serving the process authorized herein.

Section 5.6. Governing Law. This IGA shall be governed by and construed in accordance with the applicable laws of the state of Wisconsin and of the United States.

Section 5.7. Exclusive Remedy. The Parties agree that the dispute resolution procedures set forth in Article V of this IGA shall provide the exclusive means for resolving any disputes arising out of or relating to this IGA.

Section 5.8. Exhaustion of Remedies. The Parties do hereby unconditionally waive any right to require any exhaustion of City, County, Wisconsin or Nation administrative or judicial remedies in any manner other than as set forth in Article V of this IGA.

Section 5.9. Prevailing Party to Receive Costs and Fees. In the event of litigation arising under this IGA, the prevailing Party in any such litigation shall be entitled to an award and judgment for its reasonable attorney's fees and any statutory costs.

Section 5.10. No Challenges to this IGA. The Parties each hereby waive any right each may have to commence or maintain any civil action or other proceeding to contest, invalidate or challenge this IGA, any procedure or proceeding undertaken to adopt this IGA or any of the actions required or contemplated by this IGA, or to take any actions, either directly or indirectly, to oppose or in any other way, to initiate, promote or support the opposition of approvals required under this IGA or to hinder, obstruct or unduly delay any of the actions required or contemplated by this IGA. This paragraph shall not be construed to prevent a Party to this IGA from commencing a declaratory judgment action regarding the interpretation of this IGA. In the event of a challenge to the validity of this IGA by any third party, each of the Parties shall defend the validity and enforceability of this IGA in any administrative or judicial proceeding.

Section 5.11. Indemnification.

5.11.1 By the Nation. The Nation agrees to and shall indemnify, defend, protect and hold harmless the City and the County from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs and expenses (including reasonable attorneys' fees) to the extent arising from or in connection with, or caused by any act, omission, or negligence of the Nation or its contractors, licensees, invitees, agents, lessees or employees, related to or in connection with any obligations on the Nation's part to be performed under the terms of this IGA, and in case any action or proceeding be brought against the City and/or County (or the City's or County's agents, employees, contractors, subcontractors or legal counsel) by reason of any such claim, the Nation upon notice from the City and/or County shall have the option to defend the same at the Nation's expense by counsel reasonably satisfactory to the City and/or County, as applicable. However, in the event that the Nation does not elect to defend the action or proceeding, the City and/or County, as applicable, shall defend the same, at the Nation's expense, and shall consult with the Nation during the pendency of the action or proceeding.

5.11.2 By the City. The City agrees to and shall indemnify, defend, protect and hold harmless the Nation and the County from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs and expenses (including reasonable attorneys' fees) to the extent arising from or in connection with, or caused by any act, omission, or negligence of the City or its contractors, licensees, invitees, agents, lessees or employees, related to or in connection with any obligations on the City's part to be performed under the terms of this IGA, and in case any action or proceeding be brought against the Nation and/or County (or the Nation's or County's agents, employees, contractors, subcontractors or legal counsel) by reason of any such claim, the City upon notice from the Nation and/or County shall have the option to

defend the same at the City's expense by counsel reasonably satisfactory to the Nation and/or County, as applicable. However, in the event that the City does not elect to defend the action or proceeding, the Nation and/or County, as applicable, shall defend the same, at the City's expense, and shall consult with the City during the pendency of the action or proceeding.

5.11.3 By the County. The County agrees to and shall indemnify, defend, protect and hold harmless the Nation and the City from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs and expenses (including reasonable attorneys' fees) to the extent arising from or in connection with, or caused by any act, omission, or negligence of the County or its contractors, licensees, invitees, agents, lessees or employees, related to or in connection with any obligations on the County's part to be performed under the terms of this IGA, and in case any action or proceeding be brought against the Nation and/or City (or the Nation's or City's agents, employees, contractors, subcontractors or legal counsel) by reason of any such claim, the County upon notice from the Nation and/or City shall have the option to defend the same at the County's expense by counsel reasonably satisfactory to the Nation and/or City, as applicable. However, in the event that the County does not elect to defend the action or proceeding, the Nation and/or City, as applicable, shall defend the same, at the County's expense, and shall consult with the County during the pendency of the action or proceeding.

## ARTICLE VI TERMINATION

No breach or violation of any of the terms of this IGA by any of the Parties shall operate to void or terminate or provide grounds for termination of this IGA, it being the intent of the Parties that the provisions of this IGA shall be subject to specific performance, and injunctive relief shall be provided to cure any breaches prospectively, and that damages shall be awarded to redress any harm occasioned by a breach; provided, however, that if a Party cannot or will not conform to the requirements of this IGA as evidenced by a pattern of violations, and if such violations pose a serious threat to the public health, safety or welfare, this restriction on termination of this IGA shall not apply.

## ARTICLE VII AUTHORIZATION

Section 7.1. Authorization. The Parties each represent and warrant that each has performed all acts precedent to adoption of this IGA, including, but not limited to, matters of procedure and notice, and each has the full power and authority to execute this IGA and to perform its obligations in accordance with the terms and conditions thereof, and that the representative executing this IGA on behalf of such Party is duly and fully authorized to so execute and deliver this IGA.

Section 7.2. Nation Resolutions. Evidence of Nation Legislature approval of this IGA is attached hereto as Exhibit B.



Section 7.3. City Resolutions. Evidence of City Council approval of this IGA is attached hereto as Exhibit C.

Section 7.4. County Resolutions. Evidence of County Board of Supervisors approval of this IGA is attached hereto as Exhibit D.

### ARTICLE VIII NOTICES

All notices required to be given hereunder shall be given in writing, sent by either personal delivery, certified mail, return receipt requested, or overnight mail. If sent via personal delivery, the notice shall be effective on the date of delivery. If sent by certified mail, the notice shall be deemed effective five (5) days after such mailing. If sent by overnight mail, the notice shall be effective on the date of delivery. All notices shall be addressed as follows:

To the City:

City of Beloit  
Attn: City Manager  
100 State Street  
Beloit, WI 53511

With Copy To:

City of Beloit  
Attn: City Attorney  
100 State Street  
Beloit, WI 53511

To the County:

County of Rock  
Attn: Rock County Clerk  
51 South Main Street  
Janesville, WI 53545

With Copy To:

County of Rock  
Attn: \_\_\_\_\_  
51 South Main Street  
Janesville, WI 53545

To the Nation:

Ho-Chunk Nation  
Office of the President  
P.O. Box 667  
West 9814 Airport Road  
Black River Falls, WI 54615

With Copy To:

Ho-Chunk Nation  
Office of the Attorney General  
P.O. Box 667  
West 9814 Airport Road  
Black River Falls, WI 54615

**ARTICLE IX  
INTERPRETATION**

This IGA shall be interpreted as though jointly drafted by the Parties.

**ARTICLE X  
SEVERABILITY**

No provision of this IGA is severable from this IGA. In the event that any provision of this IGA is adjudged by any Court of competent jurisdiction or federal agency having jurisdiction over this IGA or Indian gaming to be invalid, ineffective or unenforceable, in whole or in part, the Parties shall promptly meet to discuss how they might satisfy the terms of this IGA by alternative means. The Parties shall use their best efforts to find, design and implement a means of successfully effectuating the terms of this IGA. If necessary, the Parties shall negotiate appropriate amendments of this IGA to maintain, as closely as possible, the original terms, intent and balance of benefits, and burdens of this IGA. In the event the Parties are not able to reach agreement in such situation, the dispute resolution procedures of Article V of this IGA shall apply.

**ARTICLE XI  
GOOD FAITH AND FAIR DEALING**

The Parties to this IGA agree that this IGA imposes on them a duty of good faith and fair dealing.

**ARTICLE XII  
CAPTIONS**

The captions contained in this IGA are inserted only as matter of convenience and for reference and in no way define, limit, extend or describe the scope of this IGA or the intent of any provisions hereof.

**ARTICLE XIII  
AGREEMENT IN COUNTERPARTS**

This IGA may be executed in several counterparts, each of which fully executed counterparts shall be deemed an original.

**ARTICLE XIV  
AMENDMENTS**

This IGA may only be amended by written instrument executed by all of the Parties.

**ARTICLE XV  
COMPLETE AGREEMENT**

This IGA, including and incorporating all Exhibits, represents the entire integrated agreement between the Parties and supersedes all past agreements and all negotiations, representations, promises or agreements, either written or oral, made during the course of negotiations leading to this IGA.

**ARTICLE XVI  
APPROVAL BY THE SECRETARY OF THE INTERIOR**

The Parties agree that this IGA may be subject to the approval of the Secretary of the Interior under 25 U.S.C. § 81. The Parties agree to use their best efforts to secure the approval of the Secretary of the Interior or a written determination of the Secretary of the Interior that this IGA is not subject to 25 U.S.C. § 81.

**ARTICLE XVII  
ASSIGNMENT OR TRANSFER**

Neither this IGA nor any of the rights or obligations created herein shall be assignable or transferable by operation of law or otherwise by any Party without the prior written consent of all the Parties. Any attempted assignment or transfer by one Party without first obtaining the written consent of all Parties shall become null and void.

**ARTICLE XVIII  
FORCE MAJEURE**

No Party shall be liable or deemed to be in default for any delay or failure in performance under this IGA resulting directly or indirectly from Acts of God, civil or military authority, acts of public enemy, war, riots, civil disturbances, accidents, fire, explosions, earthquakes, floods, the elements, strikes, lockouts, labor disturbances, shortages of suitable parts, labor or transportation, delays caused by suppliers or other cause beyond the reasonable control of such Party. In the event of such a cause, the performance of the Party prevented from performing shall be excused for the period of the cause event. Should the period exceed ninety (90) days, a Party may proceed under Article V of this IGA. The obligation to make payments due or payable shall not be excused for any force majeure event.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have entered into this IGA as of the Effective Date.

ATTEST:

CITY OF БЕЛОIT, WISCONSIN

By: \_\_\_\_\_  
Rebecca S. Houseman, City Clerk

By: \_\_\_\_\_  
Larry N. Arft, City Manager

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Thomas R. Casper, City Attorney

I hereby certify that there are sufficient funds available to pay the liability incurred by the City of Beloit pursuant to this IGA.

By: \_\_\_\_\_  
Paul York, City Comptroller

ATTEST:

COUNTY OF ROCK, WISCONSIN

By: \_\_\_\_\_  
Lori Stottler, County Clerk

By: \_\_\_\_\_  
Russell Podzilni, County Board Chair

Date: \_\_\_\_\_

ATTEST:

HO-CHUNK NATION

By: \_\_\_\_\_  
Hope B. Smith, Tribal Secretary

By: \_\_\_\_\_  
Jon Greendeer, President

Date: \_\_\_\_\_

*[APPROVAL OF SECRETARY OF THE INTERIOR IS ON THE FOLLOWING PAGE.]*

**APPROVAL OF THIS IGA BY THE  
UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF INDIAN AFFAIRS**

Pursuant to its authority under 25 U.S.C. § 81 (1988), the undersigned designee of the Secretary of the Department of the Interior of the United States of America, by executing below, does hereby approve the terms and conditions of the forgoing Intergovernmental Agreement by and between the Ho-Chunk Nation, the City of Beloit, Wisconsin and the County of Rock, Wisconsin.

United States Department of the Interior  
Bureau of Indian Affairs

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

IGA 120109 1538 (c1n)

**DRAFT**



**PROCEEDINGS OF THE BELOIT CITY COUNCIL**

**Special Meeting**

**December 19, 2011**

**5:30 p.m.**

Presiding: Kevin D. Leavy

Present: Sheila De Forest, Charles Haynes, Eric Newnham, Mark Spreitzer, and James E. Van De Bogart

Absent: David F. Luebke

1. President Leavy called the meeting to order at 5:30 p.m. in the 4<sup>th</sup> Floor City Manager's Conference Room at City Hall. Roll called showed Councilors De Forest, Haynes, Leavy, Newnham, Spreitzer, and Van De Bogart present.
2. Councilor Van De Bogart moved to adjourn into closed session Pursuant to Wis. Stats. 19.85(1)(e) to update and discuss strategies related to **Collective Bargaining**. Councilor Newnham seconded. The motion carried, and the Council adjourned into closed session at 5:30 p.m.
3. Councilor Newnham moved to adjourn the meeting, and Councilor Spreitzer seconded. The motion carried, and the meeting adjourned at 7:00 p.m.

---

Rebecca S. Houseman  
City Clerk

[www.ci.beloit.wi.us](http://www.ci.beloit.wi.us)

Date Approved by Council:



**PROCEEDINGS OF THE BELOIT CITY COUNCIL**  
**100 State Street, Beloit, WI 53511**  
**Monday, December 19, 2011**

Presiding: Kevin D. Leavy  
Present: Sheila De Forest, Charles Haynes, Eric Newnham, Mark Spreitzer, and  
James E. Van De Bogart  
Absent: David F. Luebke

1. The meeting was called to order at 7:08 p.m. in the Forum at Beloit City Hall.
2. PLEDGE OF ALLEGIANCE
3. SPECIAL ORDERS OF THE DAY/ANNOUNCEMENTS – none
4. PUBLIC HEARINGS
  - a. Community Development Director Julie Christensen presented a resolution authorizing a **Conditional Use Permit** to allow a Limited Vehicle Service use in a C-2, Neighborhood Commercial District, for the property located at 2056 Liberty Avenue. It was noted that the Plan Commission recommended denial of this application by a vote of 5-0. Ms. Christensen noted that staff raised concerns about the lack of off-street parking and the traffic flow on the property. She indicated that public notices were mailed to the neighborhood and a petition objecting this Conditional Use Permit was returned to staff signed by 14 neighbors. President Leavy opened and closed the public hearing without participation. Councilor De Forest made a motion to approve the resolution, and Councilor Haynes seconded. Councilor Van De Bogart noted that no one was present to speak on behalf of the applicant, and Ms. Christensen noted that no one was present at the Plan Commission meeting either. The motion failed by a vote of 0-6. File 8520
5. CITIZENS' PARTICIPATION – none
6. CONSENT AGENDA

Councilor De Forest requested that item 6.h. be removed from the Consent Agenda. Councilor Haynes moved to adopt the Consent Agenda, which consists of items 6.a. through 6.g. and items 6.i. and 6.j. Councilor Spreitzer seconded, and the motion carried that items 6.a. through 6.g. and items 6.i. and 6.j. be accepted, approved, adopted, or referred and acted upon as required by state and local codes by a vote of 6-0.

- a. **Minutes** of the Special and Regular Meetings of December 5, 2011 were approved.
- b. The resolution approving appointment of **Election Inspectors** for the 2012-2013 Election Cycle was adopted. File 6057
- c. The resolution approving a **Change of Agent** for Beloit Professional Baseball, Inc., d/b/a Beloit Snappers Baseball, located at 2301 Skyline Drive, to Matthew R. C. Bosen was adopted. File 8497
- d. The resolution approving a **Change of Agent** for Wal-Mart Supercenter #2352, located at 2785 Milwaukee Road, to Scott F. Greschner was adopted. File 8497
- e. The resolution approving a **Two-Lot Certified Survey Map** for the properties located at 2357 and 2426 Field Crest Road was adopted. File 8521
- f. The application for a **Zoning Map Amendment** to change the Zoning District Classification from PLI, Public Lands and Institutions District, to C-2, Neighborhood Commercial District, for property located at 1872 Porter Avenue was referred to the Plan Commission. File 8522
- g. The resolution authorizing the City Manager to apply for the **2012 HUD Lead Hazard Control Grant** was adopted. File 8452

- i. The resolution authorizing the **Final Payment** of Public Works Contract C11-13 for Short Street Reconstruction was adopted. File 8508
- j. The resolution approving acceptance of the **Office of Justice Assistance Law Enforcement Officer Grant** Award-Beat Patrol was adopted. File 7947
  
- h. Assistant to the City Manager Beth Jacobsen presented a resolution approving the **2012 Contract between the City of Beloit and the Rock County Humane Society**. Ms. Jacobsen indicated that this contract extends the RCHS's animal control service in the City of Beloit for one additional year but that RCHS cannot continue to provide service without a larger facility. Councilor De Forest indicated that she is concerned about the increase in cost of the contract and that the Council may be back in this position in another year. Ms. Jacobsen said those are valid concerns and that the Cities of Janesville and Beloit are working together to find a long term solution to this problem. Councilor Van De Bogart made a motion to approve the resolution, and Councilor Newnham seconded. The motion carried 6-0. File 5956

7. ORDINANCES – none

8. APPOINTMENTS

President Leavy announced openings and submitted the following appointments to the City Committees, Boards, and Commissions for approval. The appointed were approved on a motion by Councilor Newnham and a second by Councilor Haynes. The motion carried 6-0.

- a. **Board of Review:** Howard Naish to a term ending December 31, 2016. File 6261
- b. **Community Development Authority:** Tom Johnson to a term ending December 31, 2015. File 6054
- c. **Equal Opportunities and Human Relations Commission:** Alexis D. Siatos to a term ending June 30, 2013. File 7465
- d. **Municipal Golf Committee:** Ida Lenz to a term ending December 31, 2014. File 7382
- e. **Municipal Library Committee:** Theron Seitz to a term ending June 30, 2013. File 5991

9. COUNCILOR ACTIVITIES AND UPCOMING EVENTS

- a. Councilor De Forest said that she had a wonderful experience at Holidazzle, and she thanked everyone who helped make it a success.
- b. Councilor Van De Bogart said he enjoyed attending the Bagels and More 15-year anniversary celebration.
- c. Councilor Spreitzer said that Holidazzle was a wonderful event, and he wished everyone happy holidays and a safe new year.
- d. Councilor Newnham encouraged residents to pick up nomination papers and run for City Council in 2012. He wished everyone a safe and happy holiday season.
- e. President Leavy wished everyone a Merry Christmas and a Happy New Year, and said that there would not be a regular City Council meeting on January 3, 2012 because there are not any items that require immediate action. The next regular Council meeting will be on Tuesday, January 17, 2012.

10. CITY MANAGER'S PRESENTATION

11. REPORTS FROM BOARDS AND CITY OFFICERS

- a. Ms. Christensen presented a resolution affirming local support for a **Tax Credit Application by Celadon Holdings** for Rehabilitation of Countryside Village Apartments. Ms. Christensen briefly described the scope of this tax credit project and introduced Scott Henry, Celadon Holdings, LLC. Mr. Henry indicated that his company is partnering with Brinshore Development, LLC, for this project. Mr. Henry presented the project to be renamed Prairie Family Residences. Councilor De Forest encouraged the developer to invite the neighborhood to a public meeting to discuss this project. Duane Pole, ACC Management Group, spoke regarding his experienced property management team that would provide the daily management for the development. Councilor Van



De Bogart made a motion to adopt the resolution, and Councilor Newnham seconded. The motion carried 6-0. File 8483

- b. City Manager Larry Arft presented a resolution approving **Cooperative Agreement** with the City of Janesville for Commercial Plumbing Inspection Services. He indicated that this temporary agreement is an example of a positive outcome from the cooperative committee. Councilor Newnham made a motion to adopt the resolution, and Councilor Haynes seconded. The motion carried 6-0. File 8524
- c. City Engineer Mike Flesch presented a resolution authorizing the City Manager to enter into a **State/Municipal Agreement** with the Wisconsin Department of Transportation for the Design of the Fourth Street Bridge over Lenigan Creek. He indicated that the Wisconsin DOT will be the lead for the design phase of this project and that \$30,000 of local funding is included in the 2012 Capital Improvements Plan budget. Mr. Flesch said that the total cost of the design phase of the bridge is estimated at \$150,000, and if the actual cost is less, the City will pay 20 percent of the total. Councilors Van De Bogart and De Forest expressed concern at the cost of the design phase. Mr. Flesch indicated that this is a grant application only and does not require that the Council move forward with the project. Councilor Spreitzer made a motion to adopt the resolution, and Councilor Haynes seconded. The motion carried 5-1 with Councilor De Forest voting in opposition. File 7922
- d. Finance and Administrative Services Director Paul York presented a resolution authorizing the **Transfer of Funds** from the General Fund Master Contingency Fund. He explained that there were unexpected expenses in three departments in 2011 and that approval of the resolution will allow staff to move funds from the contingency account to cover these expenses. Councilor Haynes made a motion to adopt the resolution, and Councilor De Forest seconded. The motion carried 6-0. File 8463

12. At 8:33 p.m. Councilor De Forest moved to adjourn the meeting, and Councilor Spreitzer seconded. The motion carried 6-0.

---

Rebecca S. Houseman, City Clerk

[www.ci.beloit.wi.us](http://www.ci.beloit.wi.us)

Date approved by Council:



## PROCEEDINGS OF THE BELOIT CITY COUNCIL

### Special Meeting

January 4, 2012

5:30 p.m.

Presiding: Kevin D. Leavy

Present: Sheila De Forest, Charles Haynes, David F. Luebke, Eric Newnham, Mark Spreitzer, and James E. Van De Bogart

Absent: None

1. President Leavy called the meeting to order at 5:30 p.m. in the 4<sup>th</sup> Floor City Manager's Conference Room at City Hall, 100 State Street, Beloit, Wisconsin 53511. Roll called showed Councilors De Forest, Haynes, Leavy, Luebke, Newnham, Spreitzer, and Van De Bogart present.
2. Councilor Newnham moved to adjourn into closed session Pursuant to Wis. Stats. 19.85(1)(e) to deliberate the **purchase of public property** and to discuss **contract negotiation** regarding a possible development in the City of Beloit. Councilor Luebke seconded. The motion carried, and the Council adjourned into closed session at 5:30 p.m.
3. Councilor Luebke moved to adjourn the meeting, and Councilor Newnham seconded. The motion carried, and the meeting adjourned at 8:35 p.m.

---

Rebecca S. Houseman  
City Clerk

[www.ci.beloit.wi.us](http://www.ci.beloit.wi.us)

Date Approved by Council:

**RESOLUTION  
APPROVING THE INTERGOVERNMENTAL AGREEMENT  
WITH THE STATE OF ILLINOIS FOR THE  
STATELINE AREA TRANSPORTATION STUDY  
METROPOLITAN PLANNING ORGANIZATION**

**WHEREAS**, the attached Intergovernmental Agreement provides funding from the State of Illinois Department of Transportation to the City of Beloit to fund the operation of the Stateline Area Transportation Study; and

**WHEREAS**, the City Council of the City of Beloit finds it is in the best interest of the City to enter into an Intergovernmental Agreement to provide transportation planning services as detailed in the adopted Stateline Area Transportation Study's Unified Work Program.

**NOW, THEREFORE, BE IT RESOLVED**, that the attached Intergovernmental Agreement be, and hereby is approved.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the City Manager be, and hereby is, authorized to execute the same on behalf of the City of Beloit.

Adopted this 17th day of January, 2012

---

Kevin D. Leavy, Council President

ATTEST:

---

Rebecca S. Houseman, City Clerk

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL



**Topic:** City of Beloit Contract on behalf of the Stateline Area Transportation Study with the Illinois Department of Transportation to fund SLATS

**Date:** January 17, 2012

**Presenter(s):** Mike Flesch

**Department(s):** Public Works / Engineering Division

**Overview/Background Information:** Resolution approving the Intergovernmental Agreement (Contract) between the City of Beloit and the Illinois Department of Transportation for the reimbursement of expenses for the Stateline Area Transportation Study (SLATS).

**Key Issues (maximum of 5):**

1. Agreement should be completed soon so expenses can be reimbursed beginning January 1, 2012.
2. The Federal Funds are \$64,224, State IDOT Funds are \$11,343 and Local Illinois Community Funds are \$8,028 for a total of \$83,595, with no City of Beloit Funds expended for this contract for the Illinois side of SLATS operations.

**Conformance to Strategic Plan (List key goals this action would support and briefly discuss its impact on the City's mission.):**  
This study conforms to the Comprehensive Plan because it seeks to plan for and program professionally sound development patterns and road connections for the regional Stateline area in Wisconsin and Illinois in conformance with the 3-C (Comprehensive, Cooperative, and Continuous) federally required planning process. The planned developments and roads should also be coordinated with what the City has planned as well as nearby developments in all the SLATS communities.

**Sustainability (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines.):**

- **Reduce dependence upon fossil fuels.** A goal of SLATS is to reduce usage of fuel
- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature.** State and federal laws, rules and regulations apply and SLATS coordinates with State and Federal government agencies.
- **Reduce dependence on activities that harm life sustaining eco-systems.** National Environmental Protection Agency rules and regulations apply to all SLATS programmed projects.
- **Meet the hierarchy of present and future human needs fairly and efficiently.** Environmental justice and related rules and regulations of the federal Department of Transportation apply to the planning and programming process as attested to in SLATS documents.

**If any of the four criteria are not applicable to your specific policy or program, an N/A should be entered in that space.**

**Action required/Recommendation:**

The Engineering Division recommends approval of the intergovernmental agreement.

**Fiscal Note/Budget Impact:**

Approval of this policy will not have an adverse impact on the budget and would likely have a positive impact on long-term development of the Beloit state line regional area in both Wisconsin and Illinois.

**Attachments:**

Resolution & Intergovernmental Agreement



Governmental Body Name <b>City of Beloit</b>			
Address <b>100 State Street</b>			
City, State, Zip Beloit, Wisconsin 53511			
Remittance Address (if different from above)			
City, State, Zip , Illinois			
Telephone Number <b>608/364-6702</b>	Fax Number <b>608/364-6609</b>	FEIN/TIN <b>39-6005397</b>	DUNS <b>073859266</b>
Brief Description of Service (full description specified in Part 5) <b>Funds for this Agreement will be used to conduct 3-C (Continuous, Coordinated, and Comprehensive) transportation planning activities for the State Line Metropolitan Planning Area covering South Beloit and its contiguous urbanized areas.</b>			
Compensation Method (full details specified in Part 6) <b>Flat Rate</b>			Agreement Term From: <b>Jan 1, 2012</b>
Total Compensation Amount <b>\$75,567</b>		Advance Pay <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	To: <b>Dec 31, 2012</b>

**REQUIRED SIGNATURES**

By signing below, the GOVERNMENTAL BODY and the DEPARTMENT agree to comply with and abide by all provisions set forth in Parts 1-7 herein and any Appendices thereto.

**FOR THE GOVERNMENTAL BODY:**

\_\_\_\_\_  
Signature and Job Title of Authorized Representative

\_\_\_\_\_  
Type or Print Name of Authorized Representative

\_\_\_\_\_  
Date

**FOR THE DEPARTMENT:**

\_\_\_\_\_  
Ellen Schanzle-Haskins, Chief Counsel  
(Approved as to form)

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Charles J. Ingersoll, Director, Office of Planning & Programming

\_\_\_\_\_  
Matthew R. Hughes, Director, Finance & Administration

\_\_\_\_\_  
Date

Date: \_\_\_\_\_

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

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

\_\_\_\_\_  
Ann L. Schneider, Secretary of Transportation

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**INTERGOVERNMENTAL AGREEMENT**  
**FOR**  
**3-C TRANSPORTATION PLANNING ACTIVITIES**

This Agreement is by and between

**City of Beloit**

Please type or print legibly the GOVERNMENTAL BODY'S legal name and

**100 State Street**

**Beloit, Wisconsin 53511**

**Attn: Bob Soltau**

**E-mail: soltaub@ci.beloit.wi.us**

hereinafter called the GOVERNMENTAL BODY, and the State of Illinois, acting by and through its Department of Transportation, hereinafter called the DEPARTMENT.

Part 1	Scope/Compensation/Term
Part 2	General Provisions
Part 3	Federally Funded Agreements
Part 4	Specific Provisions
Part 5	Scope of Services/Responsibilities
Part 6	Compensation for Services
Part 7	Agreement Award Notification

**PART 1**  
**SCOPE / COMPENSATION / TERM**

- A. Scope of Services and Responsibilities.** The DEPARTMENT and the the GOVERNMENTAL BODY agree as specified in Part 5.
- B. Compensation.** Compensation (if any) shall be as specified in Part 6.
- C. Term of Agreement.** The term of this Agreement shall be from **January 01, 2012 to December 31, 2012.**
- D. Amendments.** All changes to this Agreement must be mutually agreed upon by the DEPARTMENT and the GOVERNMENTAL BODY and be incorporated by written amendment, signed by the parties.
- E. Renewal.** This Agreement may not be renewed.

## PART 2 GENERAL PROVISIONS

**A. Changes.** If any circumstance or condition in this Agreement changes, the GOVERNMENTAL BODY must notify the DEPARTMENT in writing within seven days.

**B. Compliance/Governing Law.** The terms of this Agreement shall be construed in accordance with the laws of the State of Illinois. Any obligations and services performed under this Agreement shall be performed in compliance with all applicable state and federal laws.

**C. Availability of Appropriation.** This Agreement is contingent upon and subject to the availability of funds. The DEPARTMENT, at its sole option, may terminate or suspend this Agreement, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason, (2) the Governor decreases the DEPARTMENT's funding by reserving some or all of the DEPARTMENT's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly; or (3) the DEPARTMENT determines, in its sole discretion or as directed by the Office of the Governor, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. GOVERNMENTAL BODY will be notified in writing of the failure of appropriation or of a reduction or decrease.

**D. Records Inspection.** The DEPARTMENT or a designated representative shall have access to the GOVERNMENTAL BODY's work and applicable records whenever it is in preparation or progress, and the GOVERNMENTAL BODY shall provide for such access and inspection.

**E. Records Preservation.** The GOVERNMENTAL BODY, shall maintain for a minimum of **three years** after the completion of the Agreement, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the Agreement.

**F. Subcontracting/Procurement Procedures/Employment of DEPARTMENT Personnel**

1. Subcontracting. Subcontracting, assignment or transfer of all or part of the interests of the GOVERNMENTAL BODY concerning any of the obligations covered by this Agreement is prohibited without prior written consent of the DEPARTMENT.

2. Procurement of Goods or Services – Federal Funds. For purchases of products or services with any Federal funds that cost more than \$3,000.00 but less than the simplified acquisition threshold fixed at 41 U.S.C 403(11), (currently set at \$100,000.00) the GOVERNMENTAL BODY shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any Federal funds that are in excess of the simplified acquisition threshold fixed at 41 U.S.C. 403(11), (currently set at \$100,000.00) will require the GOVERNMENTAL BODY to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the GOVERNMENTAL BODY, the procedures of the DEPARTMENT will be used, provided that the procurement procedures conform to the provisions in Part 3(K) below. The GOVERNMENTAL BODY may only procure products or services from one source with any Federal funds if: (1) the products or services are available only from a single source; or (2) the DEPARTMENT authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

3. Procurement of Goods or Services – State Funds. For purchases of products or services with any State of Illinois funds that cost more than \$10,000.00, (\$5,000.00 for professional and artistic services) but less than the small purchase amount set by the Illinois Procurement Code Rules, (currently set at \$33,500.00 and \$20,000.00 for professional and artistic services) the GOVERNMENTAL BODY shall obtain price or rate quotations from an adequate number (at least three) of qualified sources. Procurement of products or services with any State of Illinois funds in excess of the small purchase amount (currently set at \$33,500.00 for goods and services and \$20,000.00 for professional and artistic services) will require the GOVERNMENTAL BODY to use the Invitation for Bid process or the Request for Proposal process. In the absence of formal codified procedures of the GOVERNMENTAL BODY, the procedures of the DEPARTMENT will be used. The GOVERNMENTAL BODY may only procure products or services from one source with any State of Illinois funds if: (1) the products or services are available only from a single source; or (2) the DEPARTMENT authorizes such a procedure; or, (3) after solicitation of a number of sources, competition is determined inadequate.

The GOVERNMENTAL BODY shall include a requirement in all contracts with third parties that the contractor or consultant will comply with the requirements of this Agreement in performing such contract, and that the contract is subject to the terms and conditions of this Agreement.

4. EMPLOYMENT OF DEPARTMENT PERSONNEL. The GOVERNMENTAL BODY will not employ any person or persons currently employed by the DEPARTMENT for any work required by the terms of this Agreement.

### PART 3 FEDERALLY FUNDED AGREEMENTS

**A. Standard Assurances.** The GOVERNMENTAL BODY assures that it will comply with all applicable federal statutes, regulations, executive orders, Federal Transit Administration (FTA) circulars, and other federal requirements in carrying out any project supported by federal funds. The GOVERNMENTAL BODY recognizes that federal laws, regulations, policies, and administrative practices may be modified from time to time and those modifications may affect project implementation. The GOVERNMENTAL BODY agrees that the most recent federal requirements will apply to the project.

**B. Certification Regarding Lobbying.** As required by the United States Department of Transportation (U.S. DOT) regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the GOVERNMENTAL BODY'S authorized representative certifies to the best of his or her knowledge and belief that for each agreement for federal assistance exceeding \$100,000:

1. No federal appropriated funds have been or will be paid by or on behalf of the GOVERNMENTAL BODY to any person to influence or attempt to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of federal assistance, or the extension, continuation, renewal, amendment, or modification of any federal assistance agreement; and
2. If any funds other than federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for federal assistance, the GOVERNMENTAL BODY assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.
3. The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements).

The GOVERNMENTAL BODY understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing federal assistance for a transaction covered by 31 U.S.C. 1352. The GOVERNMENTAL BODY also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**C. Nondiscrimination Assurance.** As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21 at 21.7, the GOVERNMENTAL BODY assures that it will comply with all requirements of 49 CFR Part 21; FTA Circular 4702.1A, "Title VI and Title VI - Dependent Guidelines for Federal Transit Administration Recipients," and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the GOVERNMENTAL BODY receives federal assistance.

Specifically, during the period in which federal assistance is extended to the project, or project property is used for a purpose for which the federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the GOVERNMENTAL BODY retains ownership or possession of the project property, whichever is longer, the GOVERNMENTAL BODY assures that:

1. Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR Part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.



2. It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the GOVERNMENTAL BODY assures that it will submit the required information pertaining to its compliance with these requirements.
3. It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements of 49 U.S.C. 5332 and 49 CFR Part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
4. Should it transfer real property, structures, or improvements financed with federal assistance to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the federal assistance is extended or for another purpose involving the provision of similar services or benefits.
5. The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.
6. It will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

**D. Control of Property.** The GOVERNMENTAL BODY certifies that the control, utilization and disposition of property or equipment acquired using federal funds is maintained according to the provisions of OMB Circular A-102 Common Rule.

**E. Cost Principles.** The cost principles of this Agreement are governed by the cost principles found in 49 CFR Part 18.22 and OMB Circular A-87, "Cost Principles for State, local or Indian tribal governments", and all costs included in this Agreement are allowable under 49 CFR Part 18.22 and OMB Circular A-87, "Cost Principles for State, local or Indian tribal governments".

**F. Debarment.** The GOVERNMENTAL BODY shall comply with Debarment provisions as contained in 2 CFR Part 1200, as amended. The GOVERNMENTAL BODY certifies that to the best of its knowledge and belief, the GOVERNMENTAL BODY and the GOVERNMENTAL BODY'S principals: a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; b) within a three-year period preceding this Agreement have not been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in subsection (b), above; and d) have not within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

The inability of the GOVERNMENTAL BODY to certify to the certification in this section will not necessarily result in denial of participation in this Agreement. The GOVERNMENTAL BODY shall submit an explanation of why it cannot provide the certification in this section. This certification is a material representation of fact upon which reliance was placed when the DEPARTMENT determined whether to enter into this transaction. If it is later determined that the GOVERNMENTAL BODY knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the DEPARTMENT may terminate this Agreement for cause. The GOVERNMENTAL BODY shall provide immediate written notice to the DEPARTMENT if at any time the GOVERNMENTAL BODY learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this Part shall have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.

The GOVERNMENTAL BODY agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized, in writing, by the DEPARTMENT. The GOVERNMENTAL BODY agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the DEPARTMENT, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. The GOVERNMENTAL BODY may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless the GOVERNMENTAL BODY knows the certification is erroneous. The GOVERNMENTAL BODY may decide the method and frequency by which it determines the eligibility of its principals. The GOVERNMENTAL BODY may, but is not required to, check the Non-procurement List. If the GOVERNMENTAL

BODY knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation, in addition to other remedies available to the federal government, the DEPARTMENT may terminate this Agreement for cause or default.

Nothing contained in this section shall be construed to require establishment of a system of records in order to render in good faith the certification required by this section. The knowledge and information of the GOVERNMENTAL BODY is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

**G. Single Audit.** The Single Audit Act of 1984 (Public Law 98-502) and the Single Audit Amendments of 1996 (P.L. 104-156) require the following:

1. State or local governments that receive \$500,000 or more a year in federal financial assistance shall have an audit made in accordance with the Office of Management and Budget (OMB) Circular No. A-133.
2. State or local governments that receive less than \$500,000 a year shall be exempt from compliance with the Act and other federal requirements.
3. Nothing in this paragraph exempts state or local governments from maintaining records of federal financial assistance or from providing access to such records to federal Agencies, as provided for in federal law or in Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations."
4. A copy of the audit report must be submitted to the DEPARTMENT within 30 days after completion of the audit, but no later than one year after the end of the GOVERNMENTAL BODY'S fiscal year.

**H. Drug Free Workplace.** The GOVERNMENTAL BODY certifies that it will comply with the requirements of the federal Drug Free Workplace Act, 41 U.S.C. 702 as amended, and 49 CFR 32.

**I. Disadvantaged Business Enterprise Assurance.** In accordance with 49 CFR 26.13(a), as amended, the GOVERNMENTAL BODY assures that it shall not discriminate on the basis of race, color, national origin, or sex in the implementation of the project and in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from the U.S. DOT or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26, as amended. The GOVERNMENTAL BODY assures that it shall take all necessary and reasonable steps set forth in 49 CFR Part 26, as amended, to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from the U.S. DOT. The GOVERNMENTAL BODY'S DBE program, as required by 49 CFR Part 26, as amended, will be incorporated by reference and made a part of this Agreement for any Federal assistance awarded by FTA or U.S. DOT. Implementation of this DBE program is a legal obligation of the GOVERNMENTAL BODY, and failure to carry out its terms shall be treated as a violation of the Agreement. Upon notification by the Federal Government or the DEPARTMENT to the GOVERNMENTAL BODY of its failure to implement its approved DBE program, the U.S. DOT may impose sanctions as provided for under 49 CFR Part 26, as amended, and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, as amended, and/or the Program Fraud Remedies Act, 31 U.S.C. 3801 *et seq.*, as amended.

**J. Assurance of Nondiscrimination on the Basis of Disability.** As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the GOVERNMENTAL BODY assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The GOVERNMENTAL BODY assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

**K. Procurement Compliance Certification.** The GOVERNMENTAL BODY certifies that its procurements and procurement system will comply with all applicable third party procurement requirements of Federal laws, executive orders, regulations, and FTA directives, and requirements, as amended and revised, as well as other requirements FTA may issue including FTA Circular 4220.1F, "Third Party Contracting Guidance," and any revisions thereto, to the extent those requirements are applicable. The GOVERNMENTAL BODY certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and its contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

**L. Intelligent Transportation Systems Program.** As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture."

1. In accordance with Section 5307(c) of SAFETEA-LU, 23 U.S.C. 502 note, the GOVERNMENTAL BODY assures it will comply with all applicable requirements of Section V (Regional ITS Architecture and Section VI (Project Implementation)) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and other FTA requirements that may be issued in connection with any ITS project it undertakes financed with Highway Trust Funds (including funds from the mass transit account) or funds made available for the Intelligent Transportation Systems Program authorized by SAFETEA-LU, 23 U.S.C. 502 note.

2. With respect to any ITS project financed with Federal assistance derived from a source other than Highway Trust Funds (including funds from the Mass Transit Account) or SAFETEA-LU, 23 U.S.C. 502 note, the GOVERNMENTAL BODY assures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

**M. Davis-Bacon Act.** To the extent applicable, the GOVERNMENTAL BODY will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted subagreements.

**N. Certifications and Assurances Required by the U.S. Office of Management and Budget (OMB) (SF-424B and SF-424D)**

As required by OMB, the GOVERNMENTAL BODY certifies that it:

1. Has the legal authority and the institutional, managerial, and financial capability (including funds sufficient to pay the non-federal share of project cost) to ensure proper planning, management, and completion of the project.
2. Will give the U.S. Secretary of Transportation, the Comptroller General of the United States, and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
4. Will initiate and complete the work within the applicable project time periods;
5. Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
  - Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
  - Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25, which prohibit discrimination on the basis of sex;
  - Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap;
  - The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
  - The Drug Abuse, Prevention, Treatment and Rehabilitation Act, Public Law 92-255, and amendments thereto, 21 U.S.C. 1101 *et seq.* relating to nondiscrimination on the basis of drug abuse;
  - The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616, and amendments thereto, 42 U.S.C. 4541 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-2 related to confidentiality of alcohol and drug abuse patient records;
  - Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing;
  - Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited, to 49 U.S.C. 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment

or business opportunity, and Section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and

- Any other nondiscrimination statute(s) that may apply to the project.
6. Will comply with all federal environmental standards applicable to the project, including but not limited to:
- Institution of environmental quality control measures under the National Environmental Policy Act of 1969 and Executive Order 11514;
  - Notification of violating facilities pursuant to Executive Order 11738;
  - Protection of wetlands pursuant to Executive Order 11990;
  - Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
  - Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451 et seq.;
  - Conformity of federal Actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 et seq.;
  - Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended;
  - Protection of endangered species under the Endangered Species Act of 1973, as amended;
  - The Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 et seq., which relates to protecting components or potential components of the national wild scenic rivers system.
7. Will comply with all other federal statutes applicable to the project, including but not limited to:
- Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which provides for fair and equitable treatment of persons displaced whose property is acquired as a result of federal or federally-assisted programs;
  - The Hatch Act, 5 U.S.C. 1501-1508 and 7324-7328, which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds;
  - The Flood Disaster Protection Act of 1973, which requires the purchase of flood insurance in certain instances;
  - Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470;
  - Executive Order 11593, which relates to identification and protection of historic properties;
  - The Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469a-1 et seq.;
  - The Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 et seq., which relates to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by a federal award of assistance;
  - The Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801 et seq., which relates to prohibiting the use of lead-based paint in construction or rehabilitation of residence structures;
  - The Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

**O. Energy Conservation** To the extent applicable, the GOVERNMENTAL BODY and its third party contractors at all tiers shall comply with mandatory standards and policies relating to energy efficiency that are contained in applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Section 6321 et seq.

**P. Clean Water** For all contracts and subcontracts exceeding \$100,000, the GOVERNMENTAL BODY agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.

**Q. Clean Air** For all contracts and subcontracts exceeding \$100,000, the GOVERNMENTAL BODY agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq.

**R. Eligibility For Employment In The United States** The GOVERNMENTAL BODY shall complete and keep on file, as appropriate, Immigration and Naturalization Service Employment Eligibility Forms (I-9). These forms shall be used by the GOVERNMENTAL BODY to verify that persons employed by the GOVERNMENTAL BODY are eligible to work in the United States.

**S. Buy America** Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of satisfactory quality; or that

inclusion of domestic materials will increase the cost of overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

**T. False Or Fraudulent Statements Or Claims** The GOVERNMENTAL BODY acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the DEPARTMENT in connection with this Agreement, the DEPARTMENT reserves the right to impose on the GOVERNMENTAL BODY the penalties of 18 U.S.C. Section 1001, 49 U.S.C. Section 5307, 31 U.S.C. Section 3801, and 49 CFR Part 31, as the DEPARTMENT may deem appropriate. GOVERNMENTAL BODY agrees to include this clause in all state and federal assisted contracts and subcontracts.

**U. Changed Conditions Affecting Performance** The GOVERNMENTAL BODY shall immediately notify the DEPARTMENT of any change in conditions or local law, or of any other event which may significantly affect its ability to perform the Project in accordance with the provisions of this Agreement.

**V. Third Party Disputes Or Breaches** The GOVERNMENTAL BODY agrees to pursue all legal rights available to it in the enforcement or defense of any third party contract, and FTA or U.S. DOT and the DEPARTMENT reserve the right to concur in any compromise or settlement of any third party contract claim involving the GOVERNMENTAL BODY. The GOVERNMENTAL BODY will notify FTA or U.S. DOT and the DEPARTMENT of any current or prospective major dispute pertaining to a third party contract. If the GOVERNMENTAL BODY seeks to name the DEPARTMENT as a party to the litigation, the GOVERNMENTAL BODY agrees to inform both FTA or U.S. DOT and the DEPARTMENT before doing so. The DEPARTMENT retains a right to a proportionate share of any proceeds derived from any third party recovery. Unless permitted otherwise by the DEPARTMENT, the GOVERNMENTAL BODY will credit the Project Account with any liquidated damages recovered. Nothing herein is intended to nor shall it waive U.S. DOT's, FTA's or the DEPARTMENT's immunity to suit.

**W. Fly America** GOVERNMENTAL BODY will comply with 49 U.S.C. §40118, 4 CFR §52 and U.S. GAO Guidelines B- 138942, 1981 U.S. Comp. Gen. LEXIS 2166, March 31, 1981 regarding costs of international air transportation by U.S. Flag air carriers.

**X. Non-Waiver** The GOVERNMENTAL BODY agrees that in no event shall any action or inaction on behalf of or by the DEPARTMENT, including the making by the DEPARTMENT of any payment under this Agreement, constitute or be construed as a waiver by the DEPARTMENT of any breach by the GOVERNMENTAL BODY of any terms of this Agreement or any default on the part of the GOVERNMENTAL BODY which may then exist; and any action, including the making of a payment by the DEPARTMENT, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the DEPARTMENT in respect to such breach or default. The remedies available to the DEPARTMENT under this Agreement are cumulative and not exclusive. The waiver or exercise of any remedy shall not be construed as a waiver of any other remedy available hereunder or under general principles of law or equity.

**Y. Preference for Recycled Products** To the extent applicable, the GOVERNMENTAL BODY agrees to give preference to the purchase of recycled products for use in this Agreement pursuant to the various U.S. Environmental Protection Agency (EPA) guidelines, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 CFR Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962.

**Z. Cargo Preference - Use of United States Flag Vessels.** The GOVERNMENTAL BODY agrees to comply with 46 U.S.C. § 55305 and 46 CFR Part 381 and to insert the substance of those regulations in all applicable subcontracts issued pursuant to this Agreement, to the extent those regulations apply to this Agreement.

**AA.** GOVERNMENTAL BODY is required to register with the Central Contractor Registration (CCR), which is a web-enabled government-wide application that collects, validates, stores and disseminates business information about the federal government's trading partners in support of the contract award, grants and the electronic payment processes. If the GOVERNMENTAL BODY does not have a CCR number, the GOVERNMENTAL BODY must register at <https://www.bpn.gov/ccr>.

As a sub-recipient of federal funds equal to or greater than \$25,000 (or which equals or exceeds that amount by addition of subsequent funds), this agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

All of the requirements listed in Part 3, paragraphs A through AA apply to the federally funded project. The GOVERNMENTAL BODY agrees to include these requirements in each contract and subcontract financed in whole or in part with federal assistance.

## **PART 4 SPECIFIC PROVISIONS**

**A. Invoices.** The amount shown on each invoice shall be in accordance with the rates established in Part 6. All non-labor costs, if allowable, shall be listed and itemized as provided in Part 6.

Any invoices/bills issued by the GOVERNMENTAL BODY to the DEPARTMENT pursuant to this Agreement shall be sent to the following address:

Illinois Department of Transportation  
**Urban Program Planning**  
Attn: Nancy Dial  
2300 S. Dirksen Parkway, Room 311  
Springfield, Illinois 62764

All invoices shall be signed by an authorized representative of the GOVERNMENTAL BODY.

**B. Billing and Payment.** All invoices for services performed and expenses incurred by the GOVERNMENTAL BODY prior to July 1st of each year must be presented to the DEPARTMENT no later than **July 31** of that same year for payment under this Agreement. Notwithstanding any other provision of this Agreement, the DEPARTMENT shall not be obligated to make payment to the GOVERNMENTAL BODY on invoices presented after said date. Failure by the GOVERNMENTAL BODY to present such invoices prior to said date may require the GOVERNMENTAL BODY to seek payment of such invoices through the Illinois Court of Claims and the Illinois General Assembly. No payments will be made for services performed prior to the effective date of this Agreement. The DEPARTMENT will send all payments to the GOVERNMENTAL BODY's remittance address listed in this Agreement.

**C. Termination.** If the DEPARTMENT is dissatisfied with the GOVERNMENTAL BODY'S performance or believes that there has been a substantial decrease in the GOVERNMENTAL BODY'S performance, the DEPARTMENT may give written notice that remedial action shall be taken by the GOVERNMENTAL BODY within seven (7) calendar days. If such action is not taken within the time afforded, the DEPARTMENT may terminate the Agreement by giving seven (7) days written notice to the GOVERNMENTAL BODY. Additionally, the DEPARTMENT may terminate the Agreement by giving **thirty (30)** days written notice. In either instance, the GOVERNMENTAL BODY shall be paid for the value of all authorized and acceptable work performed prior to the date of termination, based upon the payment terms set forth in the Agreement.

**D. Location of Service.** Service to be performed by the GOVERNMENTAL BODY shall be performed as described in Part 5.

**E. Ownership of Documents/Title to Work.** All documents, data and records produced by the GOVERNMENTAL BODY in carrying out the GOVERNMENTAL BODY'S obligations and services hereunder, without limitation and whether preliminary or final, shall become and remain the property of the DEPARTMENT. The DEPARTMENT shall have the right to use all such documents, data and records without restriction or limitation and without additional compensation to the GOVERNMENTAL BODY. All documents, data and records utilized in performing research shall be available for examination by the DEPARTMENT upon request. Upon completion of the services hereunder or at the termination of this Agreement, all such documents, data and records shall, at the option of the DEPARTMENT, be appropriately arranged, indexed and delivered to the DEPARTMENT by the GOVERNMENTAL BODY.

**F. Software.** All software and related computer programs produced and developed by the GOVERNMENTAL BODY (or authorized contractor or subcontractor thereof) in carrying out the GOVERNMENTAL BODY'S obligation

hereunder, without limitation and whether preliminary or final, shall become and remain the property of both the DEPARTMENT and the GOVERNMENTAL BODY. The DEPARTMENT shall be free to sell, give, offer or otherwise provide said software and related computer programs to any other agency, department, commission, or board of the State of Illinois, as well as any other agency, department, commission, board, or other governmental entity of any country, state, county, municipality, or any other unit of local government, or to any entity consisting of representatives of any unit of government, for official use by said entity. Additionally, the DEPARTMENT shall be free to offer or otherwise provide said software and related computer programs to any current or future contractor.

The DEPARTMENT agrees that any entity to whom the software and related computer programs will be given, sold or otherwise offered shall be granted only a use license, limited to use for official or authorized purposes, and said entity shall otherwise be prohibited from selling, giving or otherwise offering said software and related computer programs without the written consent of both the DEPARTMENT and the GOVERNMENTAL BODY.

**G. Confidentiality Clause.** Any documents, data, records, or other information given to or prepared by the GOVERNMENTAL BODY pursuant to this Agreement shall not be made available to any individual or organization without prior written approval by the DEPARTMENT. All information secured by the GOVERNMENTAL BODY from the DEPARTMENT in connection with the performance of services pursuant to this Agreement shall be kept confidential unless disclosure of such information is approved in writing by the DEPARTMENT.

**H. Reporting/Consultation.** The GOVERNMENTAL BODY shall consult with and keep the DEPARTMENT fully informed as to the progress of all matters covered by this Agreement.

**I. Travel Expenses.** Expenses for travel, lodging, or per diem could possibly be paid by the DEPARTMENT pursuant to this Agreement. The GOVERNMENTAL BODY shall follow the Travel Guide for State Employees issued by the Illinois Department of Central Management Services on any travel covered under this Agreement.

**J. Indemnification.** Unless prohibited by State law, the GOVERNMENTAL BODY agrees to hold harmless and indemnify the DEPARTMENT, and its officials, employees, and agents, from any and all losses, expenses, damages (including loss of use), suits, demands and claims, and shall defend any suit or action, whether at law or in equity, based on any alleged injury or damage of any type arising from the actions or inactions of the GOVERNMENTAL BODY and/or the GOVERNMENTAL BODY'S employees, officials, agents, contractors and subcontractors, and shall pay all damages, judgments, costs, expenses, and fees, including attorney's fees, incurred by the DEPARTMENT and its officials, employees and agents in connection therewith.

**K. Equal Employment Opportunities, Affirmative Action, Sexual Harassment.** The GOVERNMENTAL BODY will comply with the Illinois Human Rights Act with respect to public contracts, including equal employment opportunity, refraining from unlawful discrimination and having a written sexual harassment policy.

**L. Tax Identification Number.**

GOVERNMENTAL BODY certifies that:

1. The number shown on this form is a correct taxpayer identification number (or it is waiting for a number to be issued.), **and**
2. It is not subject to backup withholding because: (a) it is exempt from backup withholding, or (b) has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified the GOVERNMENTAL BODY that it is no longer subject to backup withholding, **and**
3. It is a U.S. entity (including a U.S. resident alien).

NAME OF GOVERNMENTAL BODY: City of Beloit

Taxpayer Identification Number: 39-6005397

Legal Status (check one):

- |  |  |
|--|--|
| <input type="checkbox"/> Tax-exempt        | <input checked="" type="checkbox"/> Government |
| <input type="checkbox"/> Nonresident Alien | <input type="checkbox"/> Other _____           |

**M. International Boycott.** The GOVERNMENTAL BODY certifies that neither GOVERNMENTAL BODY nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This applies to contracts that exceed \$10,000 (30 ILCS 582).

**N. Forced Labor.** The GOVERNMENTAL BODY certifies it complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the DEPARTMENT under this Agreement have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).

## **PART 5**

### **SCOPE OF SERVICE/RESPONSIBILITIES**

The GOVERNMENTAL BODY will provide the work described in the approved FY2012 Unified Work Program (UWP) for the Stateline Metropolitan Planning Area. Those activities in which the DEPARTMENT will participate with Federal Metropolitan Planning (PL) funds, Federal State Planning and Research (SPR) funds, Federal Transit Administration (FTA) Section 5303 funds and State Metropolitan Planning Appropriation funds are shown in the following work elements.

1. **PROGRAM ADMINISTRATION** – The GOVERNMENTAL BODY will conduct the administrative aspects of the transportation planning process in accordance with Federal, state, and local guidance (staffing, equipping, maintaining records, documenting State Line Area Transportation Study (SLATS) meetings and decisions, applying for grants, documenting SLATS work, and billing for reimbursements). The GOVERNMENTAL BODY will establish and maintain a process and maintain an information/communication base that facilitates and insures involvement and understanding by local governmental agencies, special interest groups, and the general citizenry in the activities and policies associated with the continuing, comprehensive, and coordinated (3-C) multi-modal transportation planning process.
2. **SHORT-RANGE PLANNING** – The GOVERNMENTAL BODY will assure that immediate, day-to-day decisions are congruent and complementary to the principles and policies of SLATS as expressed by the Policy Committee through the Transportation Improvement Program (TIP), the Long Range Transportation Plan (LRTP), the Public Involvement Plan (PIP), and other accepted documents and guidance. The GOVERNMENTAL BODY will monitor current events in the State Line Area; conduct collection and analysis of information for significant changes that may affect the provision, and/or delivery of transportation services, or the effectiveness of transportation systems in the area; and deliver said information and analysis to appropriate entities and/or stakeholders in a timely manner to benefit the public decision-making process toward the betterment of transportation in the State Line Area.
3. **TRANSPORTATION IMPROVEMENT PROGRAM (TIP)** – The GOVERNMENTAL BODY will coordinate the programming of all major transportation improvements in the State Line Area with priority emphasis on the current year and the following four years. The GOVERNMENTAL BODY will prepare the FY 2013 Transportation Improvement Program (TIP). The TIP will list all Federally-funded and other major projects to be commenced between 2013 through 2016 and prioritize the projects by year of commencement; include project costs, funding sources, and status of previously approved projects. No project will be listed that does not have a reasonable chance of being funded. The GOVERNMENTAL BODY will submit the TIP to participating jurisdictions and the general public in accordance with the PIP; amend the TIP during the year, as needed, to accommodate changes in priority, funding availability, or project scope.
4. **TRANSIT PLANNING** – The GOVERNMENTAL BODY will improve public transit in the State Line Area in accordance with the LRTP and improve transportation opportunities for persons traditionally underserved by the mainstream automobile-oriented system. The GOVERNMENTAL BODY will assist area transit providers (public and private), area governments, and area transit users, analytically and administratively, toward improving the effectiveness and efficiency of public supported mass transit services.
5. **LONG-RANGE TRANSPORTATION PLANNING (LRTP)** – Regarding the LRTP, the GOVERNMENTAL BODY will maintain, amend (as needed), implement, and prepare for the LRTP's timely update. LRTP activities include on-going consideration of the 2011-2035 LRTP, evaluating the need for modifications,



familiarizing the public with the contents of the LRTP, assuring the compatibility of the LRTP with other community planning efforts, and finalizing amendments to it, as appropriate.

6. SPECIAL STUDIES – The GOVERNMENTAL BODY will provide for special planning studies, analyses, feasibility studies, and other technical work, as needed, to further SLATS planning process and facilitate sound transportation decision-making in the State Line Area. The GOVERNMENTAL BODY will participate in Special Studies, to be conducted in-house or with consultant assistance, depending on the nature of the study, the degree of special expertise needed, the scope of the study, and other relevant factors.

**Deliverables:** The GOVERNMENTAL BODY will make available, at the request of the DEPARTMENT, copies of all work products prepared throughout the term of this Agreement.

## PART 6 COMPENSATION FOR SERVICES

Federal Metropolitan Planning Funds (IL PL)	\$34,768	80%
GOVERNMENTAL BODY (Local Match)	4,346	10%
DEPARTMENT State Funds (State Match)	4,346	10%
Total	\$43,460	100%
Federal Transit Administration Section 5303 Funds (IL FTA)	\$5,456	80%
GOVERNMENTAL BODY (Local Match)	682	10%
DEPARTMENT State Funds (State Match)	682	10%
Total	\$6,820	100%
Federal State Planning and Research (SPR) Funds (Special Studies)	\$24,000	80%
GOVERNMENTAL BODY (Local Match; IL side communities)	3,000	10%
DEPARTMENT State Funds (State Match)	3,000	10%
Total	\$30,000	100%
Additional DEPARTMENT State Funds	3,315	100%
Participation:		
Federal Funding Through DEPARTMENT	\$64,224	
Match Funding By DEPARTMENT	8,028	
Additional DEPARTMENT State Funds	3,315	
Total	\$75,567	
Total Match Funding By GOVERNMENTAL BODY	\$8,028	
Grand Total	\$83,595	

**PART 7**

**AGREEMENT AWARD NOTIFICATION**

**REQUIRED FOR ALL PROJECTS**

Does this project receive Federal funds?       Yes       No

Amount of Federal funds:      \$34,768,\$24,000/IL-PL; \$5,456/IL-FTA

Federal Project Number:      SPR-PL-3000(47);IL-80-008

Name of Project:      3-C Transportation Planning Activities

CFDA Number\*, Federal Agency, Program Title:      20.205, Federal Highway Administration (FHWA); IL Highway Planning Research Program; 20.505, Federal Transit Administration (FTA); Technical Studies Grant

\*For CFDA (Catalog of Federal Domestic Assistance) Number, refer to original Federal Award/Grant Agreement.

**ANNUAL CERTIFICATION FOR COMPLIANCE WITH FEDERAL OMB-CIRCULAR A-133**

**NOTICE**

- The certification applies ONLY to governmental agencies, local units of government and non-profit agencies expending federal funds for this project. It does not apply to for-profit public or private entities.
- If OMB Circular A-133 applies to your organization, submit the certification or a copy of your OMB A-133 single audit to the DEPARTMENT at the end of your fiscal year for any fiscal year in which you expended any federal funds related to this contract.

**NOTE: ANNUAL COMPLIANCE WITH THIS REQUIREMENT IS MANDATORY FOR EVERY YEAR IN WHICH FEDERAL FUNDS ARE EXPENDED FOR THIS PROJECT BY ANY STATES, LOCAL GOVERNMENTS OR NONPROFIT ORGANIZATIONS. FAILURE TO COMPLY WITH THE ANNUAL CERTIFICATION TO THE DEPARTMENT WILL RESULT IN THE SUSPENSION OF PAYMENTS TO REIMBURSE PROJECT COSTS.**

In accordance with OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, such non-federal entities that expend \$500,000 or more in federal awards in a year are required to have a single audit performed in accordance with OMB Circular A-133. The Illinois Department of Transportation (IDOT) is required by federal law to obtain and review the single audit of all entities that had any federally participating funds pass through it, irrespective of the amount provided by IDOT. It is the responsibility of the agencies expending federal funds to comply with the requirements of OMB Circular A-133 and determine whether they are required to have a single audit performed.

In order to comply with this requirement, your agency must provide the following information to the DEPARTMENT on an annual basis for every year in which you expended funds for costs associated with this project:

1. If your agency expended \$500,000 (or the current OMB Circular A-133 qualifying amount) or more in federal awards from all sources, including other agencies, in a year, you are required to have a single audit performed in accordance with OMB Circular A-133 and submit a copy of the report to the DEPARTMENT within the earlier of 30 days after completion of the single audit or no more than nine months after the end of your fiscal year end.

**This is an annual requirement for every year in which you expended funds for this project.**

2. If your agency did not expend \$500,000 (or the current OMB Circular A-133 qualifying amount) or more in federal awards from all sources, including other agencies, in any fiscal year for which you expended funds for project costs and were not required to conduct a single audit, you must complete and return the certification statement.

**This is an annual requirement for every year in which you expended funds for this project.**

3. If your agency receives multiple awards from the DEPARTMENT, only one annual submittal of this information is required.

Please submit a copy of your OMB Circular A-133 single audit or the Single Audit Not Required Certification to:

Illinois Department of Transportation  
Audit Section, Rm. 303  
2300 South Dirksen Parkway  
Springfield, IL 62764

Attn: Sam Frioli

The single audit must be comprised of four parts. You have the option of including the four parts in one report or a combination of reports. The four parts are commonly known as:

1. Comprehensive Annual Financial Report (Financial Statements).
2. Schedule of Expenditures of Federal Awards and Independent Auditor's Report thereon.
3. Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and other matters based on an Audit of Financial Statements performed in accordance with Government Auditing Standards.
4. Independent Auditor's Report on Compliance with Requirements Applicable to each Major Program and on Internal Control over Compliance in accordance with OMB Circular A-133.

Additional information which should be submitted:

1. Corrective Action Plan(s), if applicable.
2. Management Letter, if applicable.
3. Status of Prior Year Findings, if applicable.

For your convenience, you may also submit the information via email at [Sam.Frioli@illinois.gov](mailto:Sam.Frioli@illinois.gov) or via fax at 217/782-5634. If you have any questions, please contact Sam Frioli at 217/557-4166.



# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

---

**Topic:** Certified Survey Map (CSM) for the properties located at 1800 Gateway Boulevard & 1751 Apex Drive – Council Referral to the Plan Commission

**Date:** January 17, 2012

**Presenter(s):** Julie Christensen

**Department:** Community Development

---

**Overview/Background Information:**

R.H. Batterman & Co., Inc. has submitted an Application for the Review of a Minor Subdivision and a 1-Lot Certified Survey Map (CSM) for the properties located at 1800 Gateway Boulevard & 1751 Apex Drive.

---

**Key Issues (maximum of 5):**

- The intent of the proposed CSM is to create a 32.08-acre parcel for the proposed NorthStar facility.
  - Proposed Lot 1 consists of the entire 12.94-acre parcel addressed as 1800 Gateway Boulevard and the eastern 19.14-acres of the parcel addressed as 1751 Apex Drive. Proposed Lot 1 is bisected by an existing 60-foot water & sewer easement and existing overhead transmission lines.
  - The proposed CSM also dedicates a 70-foot strip of land to the public at the southern end of proposed Lot 1 to allow for a future east-west street to allow additional access to the remainder of the parent parcel located at 1751 Apex Drive (51.95 acres). The land to be dedicated to the public will not be improved as a public street until additional development occurs on the parent parcel located at 1751 Apex Drive.
  - The proposed CSM must be reviewed by the City Council because of the dedication of public right-of-way.
- 

**Conformance to Strategic Plan (List key goals this action would support and briefly discuss its impact on the City's mission.):**

- Consideration of this request supports Strategic Goal #4.
- 

**Sustainability (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines.):**

- **Reduce dependence upon fossil fuels** – N/A
  - **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature** – N/A
  - **Reduce dependence on activities that harm life sustaining eco-systems** – N/A
  - **Meet the hierarchy of present and future human needs fairly and efficiently** – N/A
- 

**Action required/Recommendation:**

- Referral to the Plan Commission for the January 18, 2012 meeting
  - This item will most likely return to the City Council for consideration on February 6, 2012
- 

**Fiscal Note/Budget Impact:** N/A

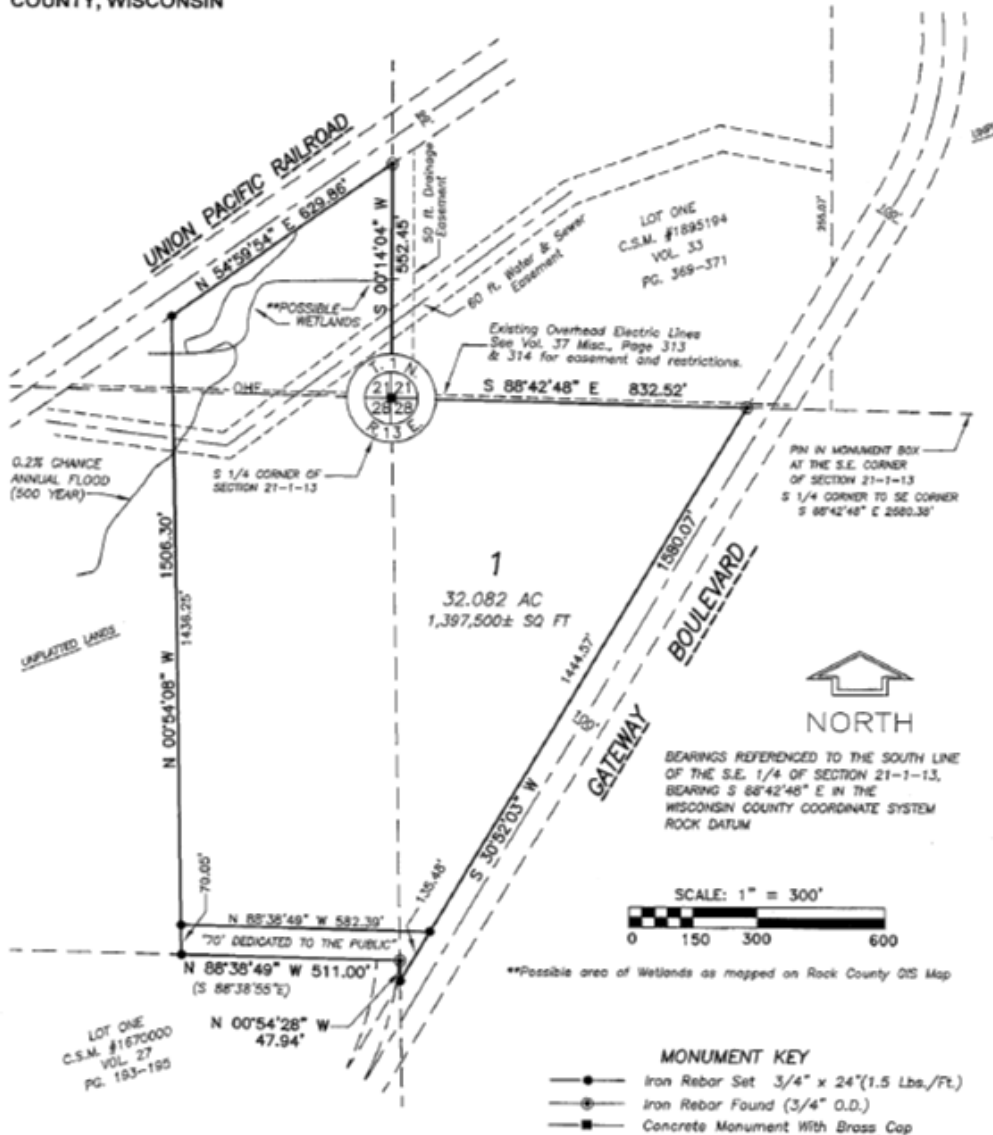
---

**Attachments:** Proposed CSM and Application

---

# CERTIFIED SURVEY MAP

OF PART OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 21,  
AND PART OF THE N.E. 1/4 OF THE N.W. 1/4 AND PART OF  
THE N.W. 1/4 OF THE N.E. 1/4 AND PART OF THE S.W. 1/4  
OF THE N.E. 1/4 OF SECTION 28, ALL SITUATED IN T. 1 N.,  
R. 13 E., OF THE FOURTH P.M., CITY OF BELOIT, ROCK  
COUNTY, WISCONSIN



ORDER NO. 31275  
FOR: GREATER BELOIT ECONOMIC  
DEVELOPMENT CORP.  
100 STATE STREET  
BELOIT, WI 53511

DATE: DECEMBER 14, 2011  
BOOK 550 PG 11  
SHEET 1 OF 4  
File Name: J:\31250-31299\31275\31275.DWG  
Plotted on 12/14/11 at 13:02:10.

**Batterman**  
engineers surveyors planners

2817 Baraboo Drive Beloit, Wisconsin 53511  
608.305.4464 www.batterman.com

# CERTIFIED SURVEY MAP

OF PART OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 21, AND PART OF  
THE N.E. 1/4 OF THE N.W. 1/4 AND PART OF THE N.W. 1/4 OF THE N.E. 1/4  
AND PART OF THE S.W. 1/4 OF THE N.E. 1/4 OF SECTION 28, ALL  
SITUATED IN T. 1 N., R. 13 E., OF THE FOURTH P.M., CITY OF БЕЛОИТ,  
ROCK COUNTY, WISCONSIN

## SURVEYOR'S CERTIFICATE OF COMPLIANCE WITH STATUTE

*State of Wisconsin* ) I, Jeffrey R. Garde, a Registered Land Surveyor, do hereby certify that I  
*County of Rock* ) ss. have surveyed and mapped Part of the S.E. 1/4 of the S.W. 1/4 of Section 21, and  
part of the N.E. 1/4 of the N.W. 1/4 and part of the N.W. 1/4 of the N.E. 1/4 and part of the S.W. 1/4 of the N.E. 1/4 of  
Section 28, all situated in T. 1 N., R. 13 E. of the Fourth P.M., City of Beloit, Rock County, Wisconsin.

DESCRIBED AS FOLLOWS: Beginning at the North Quarter corner of Section 28 aforesaid; thence South 88°42'48" East 832.52 feet along the North line of the N.E. 1/4 of said Section 28 aforesaid, to the westerly Right-of-Way of Gateway Boulevard as platted in Transportation Project Plat No. 5989-01-21-4.01; thence South 30°52'03" West 1580.07 feet along Gateway Boulevard as platted to the West line of the N.E. 1/4 of said Section 28 aforesaid; thence North 00°54'28" West 47.94 feet to the Northeast corner of Lot One of Certified Survey Map Document Number 1670000 as recorded in Volume 27 on Pages 193-195; thence North 88°38'49" West 511.00 feet along said Lot One; thence North 00°54'08" West 1506.30 feet to the South line of the Union Pacific Railroad; thence North 54°59'54" East 629.86 feet along said Railroad to the East line of the S.W. 1/4 of Section 21 aforesaid; thence South 00°14'04" West 552.45 feet to the place of beginning.

Containing 33.000 acres more or less.

Subject to any and all easements, agreements, covenants or restrictions, recorded or unrecorded.

That such map is a correct representation of all exterior boundaries of the land surveyed and the division of that land. That I have made such survey and map by the direction of the Owner of said land, and that I have complied fully with the provisions of Section 236.34 of the Wisconsin Statutes in surveying dividing and mapping the same. Given under my hand and seal, this 14th day of December, 2011 at Beloit, Wisconsin.

I hereby certify that the property taxes on the parent  
parcel are current and have been paid as of  
\_\_\_\_\_, 2011.

By: \_\_\_\_\_  
Rock County Treasurer

Approved by the City of Beloit Council, this \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

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

ORDER NO. 31275  
DATE: DECEMBER 14, 2011  
FOR: GBEDC

SHEET 2 OF 4

**R. H. BATTERMAN & CO., INC.**  
*Land Surveyors • Engineers • Planners*  
2857 Bartells Drive  
Beloit, Wisconsin 53511

# CERTIFIED SURVEY MAP

OF PART OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 21, AND PART OF THE N.E. 1/4 OF THE N.W. 1/4 AND PART OF THE N.W. 1/4 OF THE N.E. 1/4 AND PART OF THE S.W. 1/4 OF THE N.E. 1/4 OF SECTION 28, ALL SITUATED IN T. 1 N., R. 13 E., OF THE FOURTH P.M., CITY OF БЕЛОIT, ROCK COUNTY, WISCONSIN

## CORPORATE OWNERS CERTIFICATE

Turtle Creek Development LLC, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as Owner, does hereby certify that said corporation caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

Turtle Creek Development LLC, does further certify that this plat is required by Sections 236.10 or 236.12 to be submitted to the following for approval or objection: the City of Beloit Plan Commission.

IN WITNESS WHEREOF, Turtle Creek Development LLC, has caused these presents to be signed by Diane Hendricks and John Patch Co-owners, and its corporate seal to be hereunto affixed on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Diane Hendricks, Co-Owner

\_\_\_\_\_  
John Patch, Co-Owner

*State of Wisconsin* )  
*County of \_\_\_\_\_* )<sup>ss.</sup> Personally came before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2011,  
Diane Hendricks and John Patch, Co-Owners of the above-named corporation,  
to me known to be the person who executed the foregoing instrument, and to me  
known to be such Vice President of said corporation and acknowledged that he  
executed the foregoing instrument as such officer as the deed of such corporation,  
by its authority.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Wisconsin

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

ORDER NO. 31275  
DATE: DECEMBER 14, 2011  
FOR: GBEDC  
SHEET 3 OF 4

**R. H. BATTERMAN & CO., INC.**  
*Land Surveyors • Engineers • Planners*  
2857 Bartells Drive  
Beloit, Wisconsin 53511



# CERTIFIED SURVEY MAP

OF PART OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 21, AND PART OF THE N.E. 1/4 OF THE N.W. 1/4 AND PART OF THE N.W. 1/4 OF THE N.E. 1/4 AND PART OF THE S.W. 1/4 OF THE N.E. 1/4 OF SECTION 28, ALL SITUATED IN T. 1 N., R. 13 E., OF THE FOURTH P.M., CITY OF БЕЛОИТ, ROCK COUNTY, WISCONSIN

## CORPORATE OWNERS CERTIFICATE

MLG/BRC Beloit, LLC, by MLG Investments 2000 LLC Manager, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as Owner, does hereby certify that said corporation caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

MLG/BRC Beloit, LLC, by MLG Investments 2000 LLC Manager, does further certify that this plat is required by Sections 236.10 or 236.12 to be submitted to the following for approval or objection: the City of Beloit Plan Commission.

IN WITNESS WHEREOF, MLG/BRC Beloit, LLC, by MLG Investments 2000 LLC Manager has caused these presents to be signed by Andrew C. Teske, its Vice President, and its corporate seal to be hereunto affixed on this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Andrew C. Teske, Vice President

State of Wisconsin )  
County of \_\_\_\_\_ )<sup>ss</sup> Personally came before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, Andrew C. Teske, Vice President of the above-named corporation, to me known to be the person who executed the foregoing instrument, and to me known to be such Vice President of said corporation and acknowledged that he executed the foregoing instrument as such officer as the deed of such corporation, by its authority.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Wisconsin

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

DOCUMENT NO. \_\_\_\_\_ RECEIVED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2011  
AT \_\_\_\_\_ O'CLOCK \_\_\_\_M. AND RECORDED IN VOLUME \_\_\_\_\_, PAGES \_\_\_\_\_ OF  
CERTIFIED SURVEY MAPS OF ROCK COUNTY, WISCONSIN.

\_\_\_\_\_  
REGISTER OF DEEDS

ORDER NO. 31275  
DATE: DECEMBER 14, 2011  
FOR: GBEDC

SHEET 4 OF 4

**R. H. BATTERMAN & CO., INC.**  
Land Surveyors • Engineers • Planners  
2857 Bartells Drive  
Beloit, Wisconsin 53511

**CITY of BELOIT**  
**Neighborhood Planning Division**

100 State Street, Beloit, WI 53511 Phone: (608) 364-6700 Fax: (608) 364-6609

**Application for Review of a Minor Subdivision**

(Please Type or Print)

File Number: CSM-2012-01

OWNER #17

1. Address of property: 1800 Gateway Blvd & 1751 Apex Drive

2. Tax Parcel Number(s): 22810005, 22880100

3. Property is located in (circle one) City of Beloit or Township of: Turtle; Beloit; Rock or LaPrairie

In the NW Quarter of Section 28, Township North, Range 38 East of the 4th P.M.

4. Owner of record: MLO/BRO Beloit LLC Phone: 366-4464

*655 Third Street SE Beloit, WI 53511*

18400 Bishops Lane Suite 100 Brookfield WI 53005

(Address) (City) (State) (Zip)

5. Surveyor's name: Baltemah Phone: 366-4464

2857 Barrels Drive Beloit WI 53511

(Address) (City) (State) (Zip)

6. Number of new lots proposed with this land division is 012 lot(s).

7. Total area of land included in this map: 33 acres +/-

8. Total area of land remaining in parent parcel: 64.6 acres +/-

9. Is there a proposed dedication of any land to the City of Beloit? Yes

10. The present zoning classification of this property is: M1 Residential

11. Is the proposed use permitted in this zoning district: Yes

12. **THE FOLLOWING ITEMS MAY NEED TO BE COMPLETED AND/OR ATTACHED:**
- Site Assessment Checklist; is required if the total area of CSM is over 5 acres.
  - Pre-application meeting; a pre-application meeting was held on 12/5/2011 with City of Beloit Staff.
  - Developer's Statement; as required by section 12.02(7) of the Subdivision Ordinance.
  - Phase One Environmental Assessment; as per section 12.05(i)(c) of the Subdivision Ordinance.
  - Certified Survey Map; one copy as required by section 12.05(1) of the Subdivision Ordinance.

The applicant's signature below indicates the information contained in this application and on all accompanying documents is true and correct. The undersigned does hereby respectfully make application for and petition the City Plan Commission or City Council for approval of this Certified Survey Map for the purpose stated herein. The undersigned also agrees to abide by all applicable federal, state and local laws, rules, and regulations.

Jeff Garde / JEFF GARDE / 12/14/2011  
 (Signature of applicant) (Name of applicant) (Date)

This application must be submitted at least 21 days prior to the Plan Commission meeting date.

Review fee: <u>\$150 plus \$10 per lot</u>	Amount paid: <u>\$160.00</u>
Scheduled meeting date: <u>January 18, 2012</u>	
Application accepted by: <u>Don Farrington</u>	Date: <u>12/14/11</u>

**RESOLUTION SETTING A RETURN DATE AND  
AUTHORIZING THE ISSUANCE OF A SUMMONS FOR AN  
ALCOHOL LICENSE SANCTION HEARING FOR  
SEMBHI, INC., D/B/A BP GAS STATION**

**WHEREAS**, the City of Beloit Alcohol Beverage License Control and Advisory Committee at its meeting on December 13, 2011 recommended that the alcohol beverage licenses issued to Sembhi, Inc. d/b/a BP Gas Station, be suspended for 90 days; and

**WHEREAS**, City Ordinance section 31.01 adopts Wisconsin State Statutes 125.12(1) -(3m) which, among other things, requires that the City Council shall issue a summons signed by the City Clerk upon the filing of a complaint seeking revocation or suspension of a license; and

**WHEREAS**, such a complaint has been duly presented to the City Council; and

**WHEREAS**, the City Council is desirous of setting a return date and a hearing date on said matter at 6:30 p.m., on the 24<sup>th</sup> day of January, 2012, at the Forum in City Hall.

**BE IT RESOLVED**, that the City Clerk is hereby directed to sign a summons, said summons being hereby issued by the City Council for a hearing date of 6:30 p.m., on the 24<sup>th</sup> day of January, 2012, at the Forum in City Hall.

Adopted this 17<sup>th</sup> day of January, 2012.

**BELOIT CITY COUNCIL:**

By: \_\_\_\_\_  
Kevin D. Leavy, President

ATTEST:

\_\_\_\_\_  
Rebecca S. Houseman, City Clerk

IN THE MATTER OF THE  
SUSPENSION OR REVOCATION  
OF THE ALCOHOL BEVERAGE  
LICENSE OF  
SEMBHI, INC.  
d/b/a BP GAS STATION  
KRISTIN M. LOEHR, AGENT

## SUMMONS

THE CITY OF БЕЛОIT TO:

**Sembhi, Inc.  
d/b/a BP Gas Station  
Kristin M. Loehr, Agent  
2933 Milwaukee Road  
Beloit, Wisconsin, 53511**

You are hereby summoned and required to appear before the City Council for the City of Beloit, Rock County, Wisconsin on the **January 24, 2012 at 6:30 p.m.** in the Forum, City Hall, 100 State Street, Beloit, Wisconsin regarding the attached Complaint.

The hearing will be held in accordance with the provisions of Section 31.01 of the Beloit Code of General Ordinances, which adopts by reference Section 125.12 of the Wisconsin Statutes.

At said hearing, you will be expected to be present to admit or deny the allegations of the Complaint. If you do not appear, the allegations of the Complaint shall be taken as true, and should the City Council deem said allegations sufficient, your license shall be revoked. Should you appear and deny the Complaint, the City Council will proceed to a hearing at said time and you will be required to show cause as to why the relief requested in the Complaint should not be granted.

You are further notified that the City Council will consider evidence regarding the allegations alleged in the Complaint at said hearing.

You are notified that at said hearing you have the right to be personally present and represented by counsel. You will have the right to confront any sworn witnesses under oath who support the aforementioned charges.

You will have the right to present evidence on your own behalf by witnesses that you choose to present under oath. If you desire, you may have subpoenas issued requiring the attendance of witnesses on your behalf.

The hearing will be recorded on tape. You have the right to have a verbatim record of the hearing proceeding made at your own expense. Should you desire a stenographic transcript, you have the right to have a stenographer present, but the arrangement and expenses, therefore, shall be your responsibility.

Dated this 17<sup>th</sup> day of January, 2012.

---

Rebecca S. Housman  
City of Beloit City Clerk

IN THE MATTER OF THE  
SUSPENSION OR REVOCATION  
OF THE ALCOHOL BEVERAGE  
LICENSE OF  
SEMBHI, INC  
d/b/a BP GAS STATION  
KRISTIN M. LOEHR, AGENT

## COMPLAINT

TO: THE CITY COUNCIL OF  
THE CITY OF БЕЛОIT  
ROCK COUNTY, WISCONSIN

COMES NOW Captain Vincent Sciamе being first duly sworn and upon oath respectfully makes the following allegations against Sembhi, Inc., d/b/a BP Gas Station:

1. The Complainant is Vince Sciamе, Captain for the City of Beloit Police Department, 100 State Street, Beloit, WI 53511.

2. Sembhi, Inc., d/b/a BP Gas Station, Kristin Loehr, Agent, 2933 Milwaukee Road, is the holder of the attached alcohol beverage license issued for the period of July 1, 2011 through June 30, 2012 and the license and application are attached hereto as **Exhibit 1** and **Exhibit 2**.

3. The abridged minutes of the December 13, 2011 meeting of the City of Beloit Alcohol Beverage License Control Committee are attached hereto as **Exhibit 3** and incorporated herein by reference. Said minutes document the committee's recommendation of a 90-day suspension of said license. The abridged minutes of the December 14, 2010 meeting of the City of Beloit Alcohol Beverage License Control Committee are attached hereto as **Exhibit 4** and incorporated herein by reference. Said minutes document the committee's contact with Agent Kristin Loehr after the sale of alcohol to an underage person in November 2010.

4. As grounds for said sanction, it is alleged that the licensed establishment violated City Ordinance Section 31.01 adopting § 125.07(1)(a)(2), Wis. Stats., by selling alcohol to an underage person on November 11, 2010 and again on November 8, 2011 and that said violations were committed within a 12 month period of time. ISR numbers 10-8460 and 11-8471 document the police department investigation into these incidents, and are attached hereto and incorporated herein as **Exhibit 5** and **Exhibit 6**.

5. That because of said violation, the license holder is subject to sanction under Wis. Stats. Section 125.12(2)(ag)(1) in that the license holder has violated Chapter 125 of the Wisconsin Statutes and Section 31.01 of the Code of General Ordinances of the City of Beloit constituting a municipal regulation adopted under Wis. Stats. Section 125.10.

6. City of Beloit Municipal Court records indicate that Gladys Avitia was issued Citation N1241339 alleging Licensee Furnishing Alcohol to a Minor for an incident occurring on the licensed

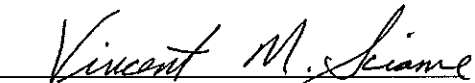
premises on November 11, 2010. Said records further indicate that Ms. Avitia was convicted of said offense on December 9, 2010. A Certificate of Conviction in Beloit Municipal Court for citation number N1241339 is attached hereto and incorporated herein by reference as **Exhibit 7**.

7. City of Beloit Municipal Court records indicate that James Lee was issued Citation 36702454 alleging Licensee Furnishing Alcohol to a Minor for an incident occurring on the licensed premises on November 8, 2011. Said records further indicate that Mr. Lee was convicted of said offense on December 8, 2011. A Certificate of Conviction in Beloit Municipal Court for citation number 36702454 is attached hereto and incorporated herein by reference as **Exhibit 8**.

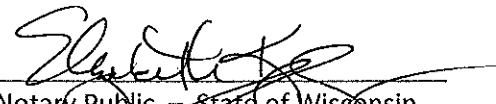
8. In addition to the incidents described above, the City reserves the right to rely on evidence, if any, arising out of any further violations at or about the premises complained of up to the time of any hearing held herein.

9. By reason of the foregoing acts and omissions of the license holder, Sembhi, Inc., d/b/a BP Gas Station, the present license is recommended by ABLCC to be suspended for a period of 90 days beginning forthwith and running for 90 consecutive days.

Dated this 6 day of January, 2012.

  
\_\_\_\_\_  
Captain Vincent Sciamé  
Police Department, City of Beloit, Wisconsin

Subscribed and sworn to before me  
on this 6 day of January, 2012:

  
\_\_\_\_\_  
Notary Public - State of Wisconsin  
My Commission is permanent.

File Copy

**CITY OF БЕЛОIT**  
STATE OF WISCONSIN

Non-Transferable

**SEMBHI, INC. ~ KRISTIN LOEHR, AGENT**

Having paid to the City of Beloit, the sum of \$1000.00

IS HEREBY GRANTED A **L I C E N S E**

To: Sell Class "A" Fermented Malt Beverages and "Class A" Intoxicating Liquors  
At: BP GAS STATION, 2933 MILWAUKEE RD., sales floor, cooler, stockroom

*Within this City, subject to the Ordinances thereof and to the laws of this State, unless previously relinquished or revoked.*

This License expires: **June 30, 2012**

Approved by the Beloit City Council

Issued this 30th day of June, 2011

  
CITY CLERK

**EXHIBIT**

tabbles®

1

# RENEWAL ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk. Read instructions on reverse side.

For the license period beginning: 07/01/2011 ending: 06/30/2011  
(MM DD YYYY) (MM DD YYYY)

TO THE GOVERNING BODY of the:  Town of  Village of  City of } Beloit

County of Rock Aldermanic Dist. No. \_\_\_\_\_ (if required by ordinance)

CHECK ONE  Individual  Partnership  Limited Liability Company  
 Corporation/Nonprofit Organization

Complete A or B. All must complete C.

**A. Individual or Partnership:**

Full Name(s) (Last, First and Middle Name) Home Address Post Office & Zip Code

**B. Full Name of Corporation/Nonprofit Organization/Limited Liability Company** Sembhi, inc. DBA BP Gas Station

Address of Corporation/Limited Liability Company (if different from licensed premises) 2933 Milwaukee Rd. Beloit, WI 53511

All Officer(s) Director(s) and Agent of Corporation and Members/Managers and Agent of Limited Liability Company:

Title	Name (Inc. Middle Name)	Home Address	Post Office & Zip Code
President/Member	<u>Kristin Marie Loehr</u>	<u>1163 Milwaukee Rd. Beloit, WI 53511</u>	<u>53511</u>
Vice President/Member			
Secretary/Member			
Treasurer/Member			
Agent	<u>Kristin Marie Loehr</u>	<u>1163 Milwaukee Rd. Beloit, WI 53511</u>	<u>53511</u>
Directors/Managers			

C. 1. Trade Name BP Gas Station Business Phone Number 608-365-9791

2. Address of Premises 2933 Milwaukee Rd. Post Office & Zip Code Beloit, WI 53511

3. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers?  Yes  No

4. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) Sales Floor, Cooler, Stockroom

5. Legal description (omit if street address is given above): \_\_\_\_\_

6. a. Since filing of the last application, has the named licensee, any member of a partnership licensee, or any member, officer, director, manager or agent for either a limited liability company licensee, corporation licensee, or nonprofit organization licensee been convicted of any offenses (excluding traffic offenses not related to alcohol) for violation of any federal laws, any Wisconsin laws, any laws of other states, or ordinances of any county or municipality? If yes, complete reverse side  Yes  No

b. Are charges for any offenses presently pending (excluding traffic offenses not related to alcohol) against the named licensee or any other persons affiliated with this license? If yes, explain fully on reverse side  Yes  No

7. Except for questions 6a and 6b, have there been any changes in the answers to the questions as submitted by you on your last application for this license? If yes, explain.  Yes  No

8. Was the profit or loss from the sale of alcohol beverages for the previous year reported on the Wisconsin Income or Franchise Tax return of the licensee? If not, explain.  Yes  No

9. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the same name as that shown under Section A or B above? [phone (608) 266-2776]  Yes  No

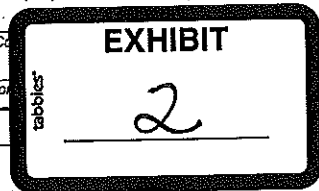
10. Does the applicant understand that alcohol beverage invoices must be kept at the licensed premises for 2 years from the date of invoice and made available for inspection by law enforcement?  Yes  No

11. Is the applicant indebted to any wholesaler beyond 15 days for beer or 30 days for liquor?  Yes  No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), members/managers of Limited Liability Companies must sign.)

SUBSCRIBED AND SWORN TO BEFORE ME  
 this 5th day of April, 2011  
Jesse J. Ahrens  
(Clerk/Notary Public)  
 My commission expires 12-11-11

Kristin Marie Loehr President  
(Officer of Corporation/Member/Manager of Limited Liability Company /Partner/Individual)  
 \_\_\_\_\_  
(Officer of Corporation/Member/Manager of Limited Liability Company /Partner/Individual)  
 \_\_\_\_\_  
(Additional Partner(s)/Member/Manager of Limited Liability Company /Partner/Individual)



TO BE COMPLETED BY CLERK	
Date received and filed with municipal clerk <u>4-5-11</u>	Date reported to council/board <u>5-2-11</u>
License number issued <u>A/A</u>	Date license issued <u>6-30-11</u>
Date license granted <u>6-6-11</u>	
Signature of Clerk / Deputy Clerk <u>[Signature]</u>	

PAID 4-5-11

1



INSTRUCTIONS FOR RENEWAL ALCOHOL BEVERAGE LICENSE APPLICATION (AT-115)

THIS RENEWAL FORM CANNOT BE USED IF:

1. There is a change in business entity (i.e., individual has changed to partnership or corporation/limited liability company; partnership changed to individual or corporation/limited liability company; corporation changed to individual, partnership or limited liability company) and if limited liability company has been dissolved.
2. Partners are added or dropped.
3. Application is made in a different municipality.

PARTNERSHIPS:

Indicate full name and home address of each partner. Each partner must sign application. Reminder: If partners have been added or dropped since your last application, you must use Form AT-106 (Original Beverage License Application).

CORPORATIONS:

The Officer(s) must sign application. Be sure to answer Question No. 7 by indicating any change of officers, directors, and/or changes in home address. If there are any changes in officers and/or directors each must complete Form AT-103 (Auxiliary Questionnaire). If there has been a change in agent since your last approved agent, he/she must complete Forms AT-104 (Schedule for Appointment of Agent) AND AT-103 (Auxiliary Questionnaire) in addition to this (AT-115) form.

LIMITED LIABILITY COMPANY:

Members/managers must sign application. Follow procedure under Corporations for any change of members or agent.

NOTE: Application must be signed where indicated on all copies in the presence of a notary public. Use ink or typewriter when filling in applications. Be sure to answer all questions fully and accurately. Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

DISCRIMINATION CLAUSE - (City of Milwaukee only)

The applicant shall not willfully refuse to provide those services offered under this license or refuse to employ or discharge any person otherwise qualified because of race, color, creed, sex, national origin or ancestry, the applicant shall not seek information as a condition of employment, or penalize any employee or discriminate in the selection of personnel for training or promotion solely on the basis of such information. The applicant also shall not discriminate against any member of the military service dressed in uniform by willfully refusing services offered under this license.

Complete, sign and return this form to the clerk.

If answer to Questions No. 6a and/or 6b on reverse side are "YES," outline details below:

CONVICTIONS

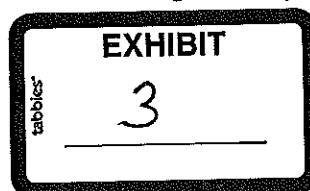
1. NAME Sembhijinc. STATUTE NO./LOCAL ORDINANCE \_\_\_\_\_  
 CHARGE Selling alcohol with out licensee on premis WHERE CONVICTED City of Beloit  
 DATE 11-11-10 PENALTY \$681 Fine + 15 Suspension  MISDEMEANOR  FELONY
2. NAME \_\_\_\_\_ STATUTE NO./LOCAL ORDINANCE \_\_\_\_\_  
 CHARGE \_\_\_\_\_ WHERE CONVICTED \_\_\_\_\_  
 DATE \_\_\_\_\_ PENALTY \_\_\_\_\_  MISDEMEANOR  FELONY
3. NAME \_\_\_\_\_ STATUTE NO./LOCAL ORDINANCE \_\_\_\_\_  
 CHARGE \_\_\_\_\_ WHERE CONVICTED \_\_\_\_\_  
 DATE \_\_\_\_\_ PENALTY \_\_\_\_\_  MISDEMEANOR  FELONY

PENDING CHARGE

1. NAME \_\_\_\_\_ STATUTE NO./LOCAL ORDINANCE \_\_\_\_\_  
 PENDING CHARGE \_\_\_\_\_ DATE \_\_\_\_\_

8. Consideration of incidents November 11, 2010 and November 8, 2011, Police Reports 10-8460 and 11-8471, at BP Gas, 2933 Milwaukee Road, for sales to underage persons. Owner/Agent, Kristin Loehr appeared.

Captain Sciamè stated on November 8, 2011 the Beloit Police Department conducted a compliance check and an underage person was able to enter BP Gas at 2933 Milwaukee Road and purchase a six pack of Milwaukee Draft Beer. Captain Sciamè further explained that on November 11, 2010 during an alcohol compliance check, a minor was sold a six pack of Keystone Light Beer and at the time the clerk was not licensed to sell alcohol and was working alone. Captain Sciamè stated this business was suspended from alcohol sales for ten days for not having a licensed operator, however, with this second sale within a twelve month period the Police Department is recommending a 90 day suspension.

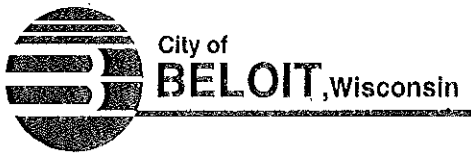


①

Ms. Loehr stated the employee who made this sale was fully trained by a Wisconsin certified course and through the company policy manual and submitted a copy of his signed acknowledgement of the course. Ms. Loehr further explained that she checked their cameras and the employee did check the driver's license, however he continued the sale and for this violation the employee was fired. Ms. Loehr asked that her license not be suspended for this violation as it was only three days short of the one year period and also because her business was having a difficult time and does not believe they could handle having a suspension.

Chairman Tinder explained to Ms. Loehr that the committee takes this violation very seriously and her business is at a very busy intersection with many streets entering the City of Beloit. Berkley moved to recommend a 90 day suspension as recommended by the Beloit Police Department, second by Vickerman. Motion carried.

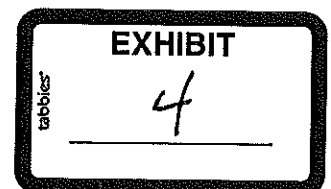
Attorney Krueger explained a recommendation would be drafted to the Beloit City Council on behalf of the committee and once that is done a copy will be mailed to Ms. Loehr. This recommendation will likely be on an agenda of the City Council in January and at that time they will set a date and time for a hearing within ten days of that City Council meeting.



**ALCOHOL BEVERAGE LICENSE CONTROL COMMITTEE**

Beloit City Hall - The Forum  
100 State Street, Beloit, WI  
December 14, 2010 - 4:00 p.m.

Present: Ralph Berkley, Frank Marsden, John Metter, Shannon Scharmer, Ron Tilley,  
Tara Tinder, Joseph Vickerman, Councilor Charles Haynes (non-voting)  
Absent: None  
Advisory: Captain Vince Sciame, Assistant City Attorney Elizabeth Krueger



4. Consideration of an underage alcohol sale on November 11, 2010 at Sembhi, Inc. d/b/a BP Gas Station at 2933 Milwaukee Road. Owner/Agent Kristin Loehr appeared.

①

Captain Sciame stated the Police Department conducted a compliance check on November 11, 2010 and an underage person was able to purchase alcohol from this store. Captain Sciame informed Ms. Loehr that this was their first violation; however a second violation within twelve months could result in a sanction against her liquor license. He asked if she understood and Ms. Loehr stated she understood.

5. Consideration of an underage alcohol sale without a licensed Operator or the Agent on the premises on November 11, 2010 at Sembhi, Inc., d/b/a BP Gas Station, Kristin Loehr, Agent, 2933 Milwaukee Road.

Captain Sciame stated the Police Department discovered during an alcohol compliance check that the clerk making the underage sale did not hold a valid Operators License for the City of Beloit nor was the Agent on the premise. Agent Kristin Loehr stated she was having the employee work only when the alcohol was locked, however the employee called that day to tell her employer that she had her license, however Ms. Loehr did not check to see if this was true. Captain Sciame explained to Ms. Loehr that it was her responsibility to make certain a licensed person was working and based on this violation the Police Department is recommending a 15 day suspension of the liquor license.

Tilley asked Ms. Loehr if this employee was still working for her and Ms. Loehr responded that she was no longer employed by her.

Berkley moved a 15 day suspension of alcohol sales at BP Gas Station, 2933 Milwaukee Road, second by Marsden. Motion carried 7-0.

Attorney Krueger explained to Ms. Loehr that a Complaint will be drafted to be presented to the City Council and the City Council will set a date for a hearing which will happen sometime in January 2011 and Ms. Loehr will receive a letter from the Attorney's Office informing her of the date along with a copy of the Complaint. Attorney Krueger informed Ms. Loehr that if she wishes to retain an attorney she should do this immediately. Ms. Loehr asked when her alcohol had to be removed from the business and Attorney Krueger explained that she didn't have to remove anything until after the City Council's decision.

10-8460  
Officer Mackey  
Original

A Copy of this narrative will need to be attached and forwarded to the city attorney along with the attached municipal citations N1232571 and N1241339.

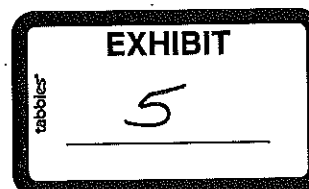
On Thursday, 11/11/10 at approximately 1800 hours, the Beloit Drug and Gang unit took part in an alcohol sting operation targeting Class A establishments in the City of Beloit. The goal was to attempt to purchase beer from local Class A vendors by using underage individuals. I, Officer Mackey, attended the briefing which was supervised by Sergeant Tilley along with participating Officer Sayles. The procedure was for the officer to transport the underage person to the place of business and provide pre-recorded buy money to purchase beer. I would maintain surveillance on the purchaser during the controlled buy. Upon exiting the store, the purchaser would advise the officer who sold them the beer and provide a description of the clerk. The second uniformed officer being Officer Erod and Officer Linder would then respond to the Class A establishment where the violation occurred, photograph the purchaser with the beer, and make contact with the store clerk who sold the beer to the underage person. The uniformed officer would then return the beer and change from the purchase to the store in exchange for original money used to make the purchase. The citation would then be issued to the clerk who sold the beer to the underage purchaser. Additionally, the citing officers would confirm that a license holder is on the Class A premise and if not, they would write the appropriate citation and close the store for alcohol sales until such time that a license holder could arrive and remain at the store.

The participating underage person was identified by me at the police department was Vincent Nora, m/w, DOB 4/1/90. I positively identified him from his Wisconsin driver's license which clearly showed he would not turn 21 until April 1, 2011. I made a photo copy of his driver's license showing this. Please see attached. I then conducted a pat down of Nora's pockets and did not locate any additional money or contraband on his person. I provided Nora a \$20.00 bill, that was pre-recorded, of buy money. I then took a digital photograph of Nora showing what he was wearing and how he looked during the day of this operation.

At approximately 1843 hours, this same date, Vincent Nora and myself proceeded to the BP gas station located at 2933 Milwaukee Road, in the City of Beloit. Nora then went into the store while I maintained in the unmarked squad car in the parking lot. At approximately 1844 hours, I observed Nora exit the store carrying a black bag. I met with Nora and he opened the bag, showing me that he was able to purchase a six-pack of 16 oz. cans of Keystone Light beer. I then took a digital photograph of Nora holding the six-pack of Keystone Light beer. Please see attached photo.

I then had Officer Erod and Officer Linder respond to my location to issue the appropriate citations. Nora said that he purchased the six-pack of beer from the store clerk who was the only clerk working inside the gas station. He described her as f/w wearing a name tag that said "Gladys" on her shirt. Nora then handed the six-pack of Keystone Light beer to Officer Erod where he and Officer Linder proceeded inside the store to meet with the clerk who sold Nora with the beer.

Officer Erod and Officer Linder then made contact with me and advised that the clerk was identified as Gladys Avitia, f/w, DOB 2/1/89. Officer Erod informed me that there



1

was not a licensee present on the premise when this sale was made by Gladys Avitia. Officer Elrod further advised that Gladys Avitia was not a licensee for furnishing alcohol to customers. Officer Elrod then contacted the licensee to respond to this location, Kristin Loehr. Officer Linder then issued Gladys Avitia citation number N1241339 for the violation of non-licensee furnishing alcohol to underage person adopting statute 125.07(1)(a)(1), ordinance number 31.01 with a non-mandatory municipal court date of 12/9/10.

The licensee for this establishment then arrived on-scene identified as Kristin Loehr, f/w, DOB 1/81. Loehr informed me that Gladys Avitia was not a licensee permitted to sell alcohol. I informed Loehr that since she (Loehr), was the licensee permitted for sales of alcohol, that she needed to be present on the premise to sell alcohol from this establishment. Officer Linder then issued Kristin Loehr ordinance citation N1232571 for Class A premises open without licensee present adopting statute 125.32(2), ordinance 31.01 with the same non-mandatory court date of 12/9/10.

The six-pack of Keystone Light beer was then returned to Kristin Loehr inside the store and the change was returned to her in exchange for the original twenty dollar bill used to make the purchase. We then left the Milwaukee Road BP gas station.

Mackey/sb/11/13/10

11-8471 Original

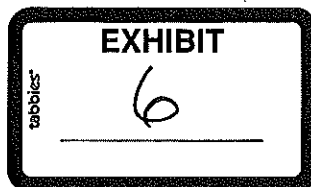
Citation 36702454 James Lee; Licensee Sell Alcohol; ord. 31.01; ss. 125.07(1)(a)2  
Officer Miller

On 11/08/11 at approximately 1800 hours, Officer Mackey, Officer Elrod, and I met at the Beloit Police Department to execute an Alcohol Sting Operation. The purpose of the sting operation was to have a person under the age of 21 go into a Class A licensed establishment to purchase alcohol. There were four volunteers that came to the Beloit Police Department. It was arranged by Sgt. Tilley of the Beloit Police Department. Two of the males rode with me. The first name was Codi J. Papcke, DOB 07/██/92. Codi's address is ██████████ located in Janesville, WI. The second volunteer that rode with me goes by the name of Chadwyck Robert Aldrich, DOB 05/██/91, who resides also in Janesville at ██████████. Both Chad and Codi had Wisconsin driver's licenses which were valid and did show a photo of them. Both Papcke and Aldrich were run through NCIC and CIB, and they had no warrants.

Sgt. Tilley was able to explain to the volunteers how the sting operation occurs. All volunteers were searched to make sure there were no second ID's or fake ID's in the volunteers' possession. Each volunteer was also photographed prior to the sting operation starting. Both Chadwyck and Codi were given \$10.00 by me, using Beloit Police Department drug buy money. The operational plan was to have one or both of the subjects, which would be Chadwyck and Codi, walk into a Class A establishment to purchase alcohol. If they were carded, they were to give their Wisconsin driver's license to the clerk. If the purchase was made, they were to come out to my location in the parking lot of the establishment where Officer Elrod would be able to photograph the volunteer purchasing the alcohol with the alcohol. At this time, Officer Elrod would go in and make contact with the clerk and issue the proper citation.

Once all instructions were given to Chadwyck and Codi, and money was distributed, and photographs were taken, I was able to take Codi and Chadwyck with me to start the operation. Officer Mackey of the Beloit Police Department was able to take the other two volunteers. While the sting operation was being conducted, I was to keep an Alcohol Sting Log which showed the location, who was buying or attempting to buy alcohol, and the time in and the time out of the establishment; and if there was a violation. I and the two volunteers were able to try thirteen different establishments.

Two of the establishments did serve the volunteers. Chadwyck Aldrich was served at BP gas station located at 2933 Milwaukee Road, located in the City of Beloit. Chadwyck walked into the establishment at 1845 hours, purchased a six-pack of Milwaukee Genuine Draft Beer. He had exited the establishment at 1847 hours. Chadwyck advised that he did make contact with a clerk and was carded. Chadwyck advised that he gave the clerk his Wisconsin driver's license to him. Chadwyck did not have any other driver's licenses on him. The one he did have was, in fact, his and was valid. Chadwyck advised that the clerk looked at it, then allowed him to purchase the alcohol.



①



Once Chad came out to my vehicle in the parking lot, I had Officer Elrod come to my location and take a photograph of Chadwyck holding the six-pack that he had purchased. Officer Elrod was able to take the beer and the receipt and the change from the \$10.00, go back in the store, and make contact with the clerk. The clerk was able to identify himself with a Nevada driver's license as James J. Lee, who had just moved to Beloit, WI, and was living at the residence of 354 West Grand, apartment number 3. Officer Elrod advised that James Lee was very upset and had pounded his fist on some equipment that was inside the store. Officer Elrod was able to issue James Lee a municipal citation for licensee sell alcohol/underage person. Ordinance violation of 31.01 and adopting Wisconsin ss. 125.07(1)(a)(2). Officer Elrod was able to give a copy of the citation to James Lee and explain the court date of 12/08/11 at 08:30 AM. Officer Elrod explained to him that it was not a mandatory court appearance through City of Beloit Municipal Court, 100 State Street in Beloit, WI. The clerk did refund the money that was used to purchase the alcohol. The \$10.00 bill was given back to the volunteer, Chad. This arrest is under case number 11-8471.

The next establishment that sold to our volunteer was the Tobacco Shack located at 1212 Cranston Road, located in the City of Beloit, County of Rock, State of Wisconsin. The volunteer is Codi J. Papcke who entered the establishment at 1930 hours, was able to purchase alcohol, and left the establishment at 1940 hours. The case number for this case is 11-8473. Codi was able to purchase a six-pack of bottled Bud Lite. Codi advised me that he entered into the establishment and was able to obtain a six-pack of Bud Lite bottles. Codi advised he went up to the cash register clerk, was a young female. Codi advised that they did card Codi. Codi advised that he gave the clerk his Wisconsin driver's license, and the clerk read off his DOB. The clerk thought about it, asked another employee at Tobacco Shack to see if he was 21 or older. The clerk said, yeah, he's alright. The clerk then rang up Codi's Bud Lite, and the money exchange had occurred. Codi then walked out of the establishment at 1940 hours and brought the beer to my location.

I then advised Officer Elrod to come to my location, issue a citation to the Tobacco Shack. While I was waiting for Officer Elrod, a young female who was the clerk at the Tobacco Shack came outside the front doors and looked at the vehicle that Codi had gotten into. Moments later, a female came out of the establishment and over to the car and said that they had made a mistake by serving Codi the alcohol. I advised the females I was an officer for the Beloit Police Department and understood the situation, and we would be in to make contact with her in just a moment. Officer Elrod arrived on scene, was able to photograph Codi with the six-pack of Bud Lite bottles. Officer Elrod brought the bottles back into the establishment along with the receipt and the change that he got from the \$10.00.

Officer Elrod was able to make contact with the clerk, identified herself with a Wisconsin driver's license as Kalene M. Lindaas, DOB 02/██/94. Lindaas lives in Orfordville at 13607 Speich Road. Lindaas advised that she does not have a permit to serve alcohol; however, the licensee, which was the other employee was part-owner of the Tobacco Shack. Officer Elrod was able to issue Lindaas municipal citation for licensee sell

alcohol to underage person, ord. number 31.01, adopting Wisconsin ss. 125.07(1)(a)(2). Lindaas did receive a copy of the citation and was explained the court date which was no mandatory court appearance, and the date is 12/08/11, 8:30 AM, through Beloit Municipal Court, 100 State Street in Beloit, WI. Lindaas and the other female both advised after they made the sale, they thought about it and realized that Codi was under the age of 21 and went outside to rectify the problem before the arrest would be made. I did receive the \$10.00 back. The alcohol was given back to the establishment. The case number regarding this is 11-8473.

Other locations that we attempted to purchase alcohol are the following: Walgreens, located at 910 Broad; Aldis, located at 2780 Milwaukee Road; Cornellier's Superstore, located at 2909 Ford; the Pilot Travel Center, located at 3001 Milwaukee Road; Beloit Mobil, located at 1902 Shopiere Road; Dick's Tackle and Bait, located at 901 Bayliss, which was closed; Tex's Groceries, located at 1909 St. Lawrence; Speedway, located at 1107 Liberty; CVS, located at 1063 Fourth Street; and Speedway, located at 148 Liberty; and the last and final one, the Rock River Grocery, located at 1800 Sixth Street, which was closed. The photographs of the volunteers taken and also Codi and Chad, standing with the purchased items, were placed into Evidence under case numbers of 11-8471 and 11-8473 will be on the same disk.

End of report.

Miller / gm / 11-10-11

STATE OF WISCONSIN

CITY OF БЕЛОIT  
MUNICIPAL COURT

ROCK COUNTY

CITY OF БЕЛОIT,

Plaintiff

v.

Citation Number: N1241339

GLADYS AVITIA

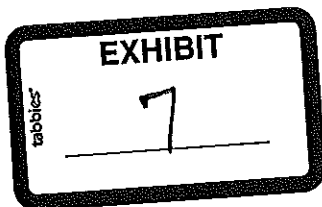
Defendant.


### CERTIFICATE OF CONVICTION

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF ROCK         )

I, **BONNIE S. COSGROVE**, Municipal Court Administrator for the City of Beloit, do hereby certify that at a term of said Court, held at the City Hall in the City of Beloit, on December 9, 2010, **Gladys Avitia**, was convicted of **Non-Licensee Furnishing Alcohol to Underage Person** in violation of §31.01 of the Code of General Ordinances for the City of Beloit, adopting by reference §125.07(1)(a)(1), Wis. Stats., and upon said conviction the court did, on December 9, 2010, sentence the defendant under §31.01 of the Code of General Ordinances for the City of Beloit.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Municipal Court Administrator, at my office in the City of Beloit, in Rock County on this 4 day of January, 2012.



  
\_\_\_\_\_  
Bonnie S. Cosgrove  
Municipal Court Administrator  
City of Beloit, Rock County, Wisconsin

STATE OF WISCONSIN

CITY OF BELOIT  
MUNICIPAL COURT

ROCK COUNTY

CITY OF BELOIT,

Plaintiff

Citation Number: 36702454

v.

JAMES J. LEE,

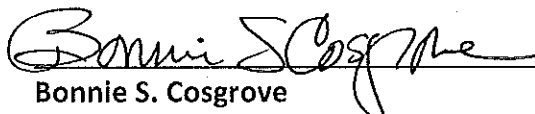
Defendant.

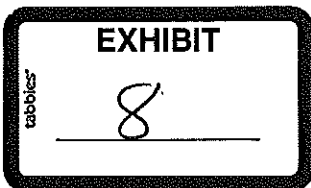
**CERTIFICATE OF CONVICTION**

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF ROCK         )

I, **BONNIE S. COSGROVE**, Municipal Court Administrator for the City of Beloit, do hereby certify that at a term of said Court, held at the City Hall in the City of Beloit, on December 8, 2011, James J. Lee, was convicted of **Licensee Sell Alcohol to Underage Person** in violation of §31.01 of the Code of General Ordinances for the City of Beloit, adopting by reference §125.07(1)(a)2, Wis. Stats., and upon said conviction the court did, on December 8, 2011, sentence the defendant under §31.01 of the Code of General Ordinances for the City of Beloit.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Municipal Court Administrator, at my office in the City of Beloit, in Rock County on this 4 day of January, 2012.

  
\_\_\_\_\_  
**Bonnie S. Cosgrove**  
Municipal Court Administrator  
City of Beloit, Rock County, Wisconsin



January 17, 2012

**APPOINTMENT REVIEW COMMITTEE  
REPORT TO CITY COUNCIL  
APPOINTMENT RECOMMENDATION**

The undersigned Kevin D. Leavy, duly elected President of the Beloit City Council, subject to confirmation by the Beloit City Council, does hereby appoint the following citizen members to the vacancies and terms indicated below, said appointments being pursuant to nominations made and approved by the Appointment Review Committee at the regular meeting held January 9, 2012:

---

Kevin D. Leavy, President  
Beloit City Council

**Appointments**

**Board of Ethics**

Incumbent **Minnie Murry** to a term ending December 31, 2014  
Incumbent **Lisa Peterson** to a term ending December 31, 2014

**Business Improvement District (Downtown Beloit Association)**

Incumbent **Christine Schlichting** (Property Owner) for a term expiring December 31, 2014  
Incumbent **Jason F. Braun** (Owner Occupant) for a term expiring December 31, 2014  
Incumbent **Peter Fronk** (Non Owner Occupant) for a term expiring December 31, 2014  
Incumbent **Deanna Ohman** (Owner Occupant) for a term expiring December 31, 2014

**Equal Opportunities and Human Relations Commission**

**Max C. Bosshart**, 1055 Burton St., Apt. 7 (replacing Gretchen Roy) to a term ending June 30, 2014

**Park, Recreation and Conservation Advisory Commission**

**Christopher K. Brown**, 820 Wisconsin Ave. (replacing Anna Kokity) to a term ending September 30, 2012

**PLEASE ANNOUNCE THE FOLLOWING VACANCIES**

Appointment Review Committee (1 vacancy for resident)  
Board of Ethics (1 vacancy for former City Councilor)  
Board of Review (1 vacancy [as Alternate] for resident)  
Community Development Authority (1 vacancy for resident)  
Disabled Parking Enforcement Assistance Council (3 vacancies for residents with disabled plates)  
Landmarks Commission (1 vacancy for resident)  
Municipal Golf Committee (1 vacancy for youth representative)  
Park, Recreation & Conservation Advisory Commission (1 vacancy for youth)  
Plan Commission (1 vacancy for resident)  
Traffic Review Committee (1 vacancy for resident)

**RESOLUTION  
APPROVING THE AGREEMENT BETWEEN THE CITY OF БЕЛОIT AND  
THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL  
EMPLOYEES LOCAL #643 TRANSIT**

**WHEREAS**, the City and representatives from the AFSCME Local #643 Transit Collective Bargaining Unit met to negotiate a successor agreement outlining wages, hours, and terms and conditions of employment; and

**WHEREAS**, subsequent discussions between the City and the bargaining unit led to a tentative agreement reached on December 21, 2011; and

**WHEREAS**, the new agreement will cover calendar years 2012 and 2013, and provide for contractual adjustments; a salary wage increase of 2.5% effective December 16, 2013, and full payment of the employee's share of the WRS contribution rate as determined by the Department of Employee Trust Funds by the employee; and

**WHEREAS**, on January 9, 2012, AFSCME Local #643 Transit members approved the tentative agreement reached between the City and the bargaining unit; and

**NOW, THEREFORE, BE IT RESOLVED** by the Beloit City Council that the City Manager be, and he hereby is, authorized to enter into a labor agreement with AFSCME Local #643 Transit for calendar years 2012 and 2013.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the terms and conditions of the two-year agreement shall be as outlined in the attached summarizing the agreed upon wages, hours and terms and conditions of employment.

Dated at Beloit, Wisconsin, this 17<sup>th</sup> day of January, 2012.

\_\_\_\_\_  
Kevin D. Leavy, President

Attest:

\_\_\_\_\_  
Rebecca S. Houseman, City Clerk

# CITY OF BELOIT

## REPORTS AND PRESENTATIONS TO CITY COUNCIL

---

**Topic:** Tentative collective bargaining agreement with the American Federation of State, County, and Municipal Employees (AFSCME) Local #643 Transit to enter into a one-two-year contract for calendar years 2012-2013.

**Date:** January 17, 2012

**Presenter:** Larry Arft

**Department:** Finance and Administrative Services/Human Resources

---

### Overview/Background Information:

The City and the AFSCME Local #643 Transit Union reached a tentative agreement on December 21, 2011 to enter into a new two-year Agreement to cover calendar years 2012-2013. AFSCME Local #643 Transit ratified the tentative agreement covering calendar years 2012-2013 on January 9, 2012 and the matter is now before the Council for approval.

---

### Key Issues (maximum of 5):

- Full payment of the employee's share of the WRS contribution rate as determined by the Department of Employee Trust Funds by the employee; and
  - Increases to deductibles, maximum out-of-pocket costs, and prescription drug co-pays; and
  - Salary wage increase of 2.50% effective December 16, 2013.
- 

### Conformance to Strategic Plan (List key goals this action would support and briefly discuss its impact on the City's mission.):

- Consideration of this request supports Strategic Goal #1.
- 

### Sustainability (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines.):

- Reduce dependence upon fossil fuels – N/A
- Reduce dependence on chemicals and other manufacturing substances that accumulate in nature – N/A
- Reduce dependence on activities that harm life sustaining eco-systems – N/A
- Meet the hierarchy of present and future human needs fairly and efficiently – N/A

If any of the four criteria are not applicable to your specific policy or program, an N/A should be entered in that space.

---

### Action required/Recommendation:

- Adopt the proposed resolution to enter into a two-year labor agreement for calendar years 2012-2013.
- 

### Fiscal Note/Budget Impact:

The 2.5% across the board wage increase effective 12/15/11 will cost approximately \$700.00. The WRS contribution from the employees will save the City approximately \$88,900.

**TENTATIVE AGREEMENT REACHED BETWEEN  
CITY OF БЕLOIT  
and  
LOCAL #643-TRANSIT, AFSCME AFL-CIO**

**December 21, 2011**

1. The City and Union will enter into a side agreement for the incumbent currently in the Office Coordinator position to retain all of her rights under compensatory time, vacation schedule, and sick leave under the #2537 contract.

2. **Appendix A -- Wages.**

Add the Office Coordinator to the salary schedule at Range II with Step A, Beginning/Probationary Rate starting at \$15.70/hr. and progressing according to the #643 wage table.

3. **Article XIV -- Insurance, Retirement, Employee Welfare.**

A. See attached table and revise Section 14.02 as follows:

**Health and Accident Insurance:** During any illness the City shall continue to pay the employee's insurance policies.

~~The City agrees to pay a maximum of two hundred twenty four dollars (#224.00) per month during 1985 towards the cost of the monthly premiums for hospital, surgical, major medical and zero (0) dollar deductible dental insurance coverage provided under a policy held by the City for its employees and their dependents, plus any increase in monthly premium during the term of this Agreement.~~

~~Effective January 1, 1998 prescription drugs will be lifted out of the health care plan and converted to a Prescription Drug Program. The Prescription Drug Program will include drug utilization review and a drug formulary for retail and mail order prescriptions. From September 1, 2008~~ **January 1, 2012** through December 31, ~~2010~~ **2013** co-payments will be as follows:

	Retail	Mail Order (Mailed)
FORMULARY	\$5.00 generic/\$25.00 brand	\$10.00 generic/\$50.00 brand
NON FORMULARY	\$5.00 generic/ <del>\$50.00</del> <b>\$60.00</b> brand	\$10.00 generic/ <del>\$100.00</del> <b>\$120.00</b> brand



including mandatory use of generic medications and mandatory use of the mail order program after three months of prescription maintenance medication.

B. Revise Section 14.03 as follows:

The City and employees participate in a retirement program as provided for by Wisconsin Statutes and governed by Wisconsin Statutes and Wisconsin Retirement Board rules.

**Effective January 19, 2012, all employees will be required to pay the full employee's share of the WRS contribution rate [defined as equal to one-half of the total actuarially required contribution rate], as determined by the Department of Employee Trust Funds.** (This will only be effective upon ratification of the contract by the Union no later than January 9, 2011)

~~The City agrees to pay the employees contribution to the Wisconsin Retirement Fund, not to exceed seven (7) percent of wages; said payment being an equivalent reduction of the employee's share of their contribution to the fund. Of the amount one (1) percent shall be in accord with 40.05(2m) of the Wisconsin Statutes.~~

4. **Article XXII -- Duration.**

Revise the term of the agreement to reflect a two-year duration, effective January 1, 2012 through December 31, 2013.

5. **Appendix A -- Wages.**

01/01/2012 – 0%

12/16/2013 – 2.5% Increase

6. **Side Letter of Agreement on CDL Disqualification.**

A. Extend the Side Letter of Agreement for another two year period from January 1, 2012 through December 31, 2013.

B. Revise Paragraph 3 of the Side Letter as follows:

3. During the trial period, the City will permit up to ~~two (2)~~ **one (1)** employees who ~~are~~ **is** disqualified from holding a Commercial Driver's License (CLD) under the ~~new~~ Federal Motor Carrier Safety Administration regulations and the Wisconsin Department of Transportation regulations to continue to perform non-CDL work for up to one (1) year at their current rate of pay less \$1.25/hr. effective with the date of the loss of the CDL provided the employee is qualified to perform the available work. The reduction in pay will not affect eligibility for benefits.